WOMEN IN MANU'S PHILOSOPHY

R.M. DAS

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The present work "Manu's Philosophy of Woman", in its eight chapters, attempts to comprehensively assess and bring into bold relief his concept of and attitude towards woman in all her aspects.

The topic is quite interesting and nowhere has it been treated so exhaustively, objectively and scholarly in one single volume as in this fascinating and thought provoking monograph.

As the original sources have been tapped and all the important statements fully substantiated, the author's conclusions reflect not only his scholarship but also his dispassionate assessment.

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RAM MOHAN DAS

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PREFACE

Manu, the father of the Hindu legal system and the first and the foremost social philosopher of India, has always been and is still looked upon as the unquestioned authority on religious, social and legal matters. His greatness consists in presenting to us at one place and in simple clear terms the quintessence of ideals and practices of ancient Indian civilization as they originated in the Vedic period and developed through the ages upto his time.

The *Manusmriti*, his pioneer work, is an ancient text of high authority and merit. It is looked upon with great respect by all the law-givers of India and also by jurists and orientalists of the present day. Its value consists in the mass of systematized material it preserves and for its unique and felicitous expression and happy literary style.

The attitude towards woman in any society reveals the state of evolution at which it has arrived and furnishes the truest test of its civilization and culture. "The degree" says Sir Henry Maine, "in which personal immunity and proprietary capacity of women are recognised in a particular state or community, is a test of the stage of advance of its civilization for inasmuch as no class of similar importance and extent was in the infancy of society placed in a position of such absolute dependence as the other sex; the degree which the dependence has voluntarily been modified and relaxed serves undoubtedly as a rough measure of tribal, social and national capacity for self- control. Of all the chapters of the law of the person, the most important is that which is concerned with the status of females".

When the woman stands by the side of her husband, possessed of full rights, restrained only so far as not amounting to undue liberty, not merely the mother of his children but the mistress of his house, a friend and companion of her husband to the extent of being identified with

him, we can most confidently say that the people amongst whom the relation of the sexes is so developed are really cultured ones. Hence, the great importance of the study of Manu's philosophy of woman.

The present monograph is an humble attempt to present for the first time, an accurate, coherent, clear and exhaustive picture of Manu's concept of and attitude towards woman in all her aspects. In course of doing so we find that Manu has looked at the problem of woman from different points of view at different places and in varying contexts. And, since every time the universe of discourse is changed the views appear to be contradictory. Thus from the point of view of family stability and happiness the woman is to be respected and honoured but in view of the inherent weakness, psychological and biological of her nature, she is conceived as one in need of protection of men and to that extent dependent on him.

I am deeply indebted to all those who are pioneers in the field of sociological research and particularly to those who have worked on Manu. Their works have inspired me and shown me the path to be followed.

I shall consider myself fully rewarded if the present work awakens new interest in the study of Manu. As I am aware of some of the short-comings in my endeavour, I shall highly appreciate constructive criticism from conscientious and careful readers.

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Chapter 1

INTRODUCTION

Manu, a staunch believer in the co-ordinated and harmonious development of human personality assigns a very reasonable place to women in the framework of society. He does not regard her as a necessary evil to be tolerated any how but as the prime factor in man's worldly as well as spiritual happiness.[1] Man cannot make any progress if there be no woman by his side ready to co-operate with him in all his activities. Man's powers lie dormant so long as they are not touched by the spark of woman's love and affection. The wheel of the world cannot move in the absence of woman. Even the creation itself was not possible without her participation in it. The Almighty, when he desired to create the world, divided His body into two parts, one being the male and the other female.[2] Manu fully realises the great importance of woman as a component part of man, the two together making a complete whole.[3] He is wide awake to the sterling qualities of woman's head and heart but is not blind to her inherent weaknesses also. He allows her what is her due, neither, more nor less. He feels no hesitation in calling a spade a spade. He does not lead woman to destruction by giving her what she is not fit for. But at the same time does not deny her what she really needs to bring into play the inherent qualities lying latent in her. He grants her love and affection that are necessary for her.[4] Independence in everything is harmful for her and so he denies it to her.[5] He assigns to her only such duties as are compatible with her nature and capacity and as she can easily and properly discharge. He checks her from those actions that are not in keeping with her natural endowments and which she cannot properly perform. Living within the four walls of the home, she can manage its affairs well and so she is the mistress there.[6] But she cannot cope with the adverse situations of the outside world, so she is not permitted to

move out freely.

Manu, does not overstress social and environmental influence on her growth and well-being ignoring her natural, biological and anatomical limitations which are responsible for all the difference in the development of her mental and physical powers whose importance is in no way less than that of environment and opportunities. The potentialities as well as the limitations of both the sexes in their own spheres have been carefully noted by Manu.

Thus Manu recognises structural difference between man and woman. Each one is different from the other from top to toe and is suited for different types of work. Man is intended by nature to do all the rough and hard work for earning bread while woman is designed for household affairs, duties less strenuous but requiring a good deal of love and affection, which none but she alone can bestow. This view of Manu favourably compares with that of Radhakrishnan who says, "Women cannot do something which men can. Their physiology prevents this. That, however, does not prove any inferiority on their part. We must do the things for which we are made and do them well".[7] Regarding the physical peculiarities of woman Havelock Ellis says, "Before the period of civilisation dawned, the bodies of man and woman were already specialised for different sides of human life. Legislation cannot blot out the structural difference between man and woman.[8]

Manu has no idea of any inherent superiority of one over the other when he assigns different types of work to man and woman. It is only a kind of division of labour, that man and woman are required to do different jobs suited to their respective physical and mental capacities. To the same effect is the statement of Bhagwan Das who says, "And for the time being the difference of sex lasts, the vocations of the two are accepted as different in the same way as the functions of the two halves of one brain and of the head and the heart in the same body".[9]

Manu regards woman as more emotional and less rational than man and so more apt to fall an easy prey to outward appearances. She lacks the ability of true appreciation and balance of mind and does not possess much depth of reason. Manu himself says, "When creating them, He alloted to woman a love of their bed, of their seat and of ornaments, impure desires, wrath, dishonesty, malice and bad conduct".[10] He further says that woman is destitute of strength and given to falsehood.[11] These should not be taken as charges against woman. Even a modern psychoanalyst observes, "It may be admitted

that women have but little sense of justice and this is, no doubt, connected with the preponderance of envy in their mental life".[12] It is in view of this that Manu does not contemplate equality between man and woman for running a race with each other in the different walks of life. His ideal is that of oneness of the two and not of equality with each other.[13] This he tries to maintain through equitable apportionment of different kinds of rights, duties and rewards to each of them. Bhagwan Das giving a very good illustration says, "A fine milch cow and a fine riding mare may be equally valuable; but they are not the same in kind and will not prosper if stalled, fed and used in the same way".[14] The merit of two different things cannot be tested on a common ground but in their own respective spheres. He rightly concludes, "Manu's ideal is gentlemen and gentlewomen each filling a distinct place in the domestic and the social scheme, never entering into conflict with each other but ever making life's way smoother for each other."[15]

As already pointed out Manu does not despise sex-life but recognises its great importance for the development of human race. In his view man and woman each is a half and requires the other for its completion and perfection. The division of the sexes is a biological phenomenon and not a historical event like the division of races and castes. That is why Manu regards marriage as a *Sarira samskara* which every man and woman must undergo at the proper age and time. He regards sex as the psyco-moral basis of social organisation.

Further the various religious rites performed during the post-marriage ceremonies clearly show that mating is regarded as a serious and pious duty; there is no tinge of profligacy or lustful sensual indulgence in it.

Manu knows very well that masculine and feminine elements in the physical and the psychical structure of the human beings have a certain chemical affinity and they are apt to come together as magnet and iron do. It is on this account that Manu is very much opposed to the free mixing of the two sexes. He lays down very strict rules for maintaining reasonable distance between persons of the opposite sex. He says, "It is the nature of women to seduce men in this world; for that reason the wise are never unguarded in the company of females. Women lead astray in this world not only a fool but even a scholar and make him a slave of desires and anger. One should not sit in a lonely place with one's mother, sister or daughter, for senses are powerful and master even a learned man".[16] We may very favourably compare this statement of Manu with that of Freud: "Psycho- analytic

research has incontrovertibly shown that the incestuous choice is rather the first and the most customary choice".[17]

In the opinion of Manu a woman temperamentally desires and needs protection.[18] But this protection is not be forced upon her from outside.[19] This view of Manu reveals his insight in respect of woman's psychology. Radhakrishnan corroborates Manu's view when he says, "But the biological formation of the woman and constant subjection to pregnancy and delivery necessarily bring in their train a state of helplessness leading to dependence. This biological and structural peculiarity of women is responsible for the role which has been fastened upon her".[20]

Even Vatsyayana who holds liberal views about the fair sex looks upon her unrestrained independence with disapprobation and gives definite instructions regarding the manner and the method to be followed by the citizens for protecting their women-folk and their wives.[21]

Notes and References

1. उत्पादनमपत्यस्य जातस्य परिपालनम् ।
   प्रत्यहं लोकयात्राया: प्रत्यक्षं स्त्रीनिबन्धनम् ॥

   Manu, IX, 27
2. *ibid.*, p. 1-32
3. एतावानेव पुरुषो चज्जायात्मा प्रजेति ह ।
   विप्रा: प्राहुस्तथा चैतद्यो भर्ता सा स्मृताङ्गना ॥

   ibid., IX, 45
4. *ibid.*, III, 55-59
5. *ibid.*, V, 147-149
6. *ibid.*, IX, 27-28
7. *Great Women of India*: Introduction, p. XV
8. *Man and Woman* pp. 151-152
9. *Science of Social Organisation,* p. 450.
10. Manu IX, 17.
11. *ibid.*, IX, 18
12. *Introduction to Psycho-analysis* p. 134
13. Manu IV, 184
14. *Science of Social Organisation* p. 488

15. *ibid.*, p. 462
16. Manu II 213-15
17. *Introduction to Psycho-analysis,* p. 177
18. Manu IX. 4
19. *ibid.*, IX, 10-12
20. *Great Women of India: Introduction,* p. XVIII
21. *Kamasutra* V, 3, 43-49.

Chapter 2

THE DAUGHTER

Daughter's position before the time of Manu

The birth of a son was certainly preferred to that of a daughter. A goodly number of sons along with cattle and land are constantly prayed for. In the concluding portion of the Rgvedic hymn X. 85. Indra is invoked to grant ten sons to the bride. Macdonell observes, "Indeed daughters are conspicuous in the *Rgveda* by their absence. We meet in hymns with prayers for sons and grandsons, male offspring, male descendants and male issues and occasionally for wives but never for daughters. Even forgiveness is asked for ourselves and grandsons, but no blessing is ever prayed for female issues. When Agni is born it is as if it were a male infant. They clap their hands and make sounds of rejoicing like the parents of a new-born son. There is no such rejoicing over the birth of a daughter".[1]

In the age of the later *Samhitas* and the *Brahmanas* also male progeny continued to be distinctly preferred to female ones. The *Aitareya Brahmana* declares that a daughter is a source of misery while a son is the saviour of the family;[2] the latter is the hope of the family, while the farmer is the source of trouble to it.[3] A verse of the *Atharvaveda* echoes forth general desire for the birth of a son and not of a daughter, "The birth of a girl, grant it elsewhere, here grant a son".[4] In a prayer to Pinga it is fervently sought that he might preserve the babe at birth and make not it a female child.[5] The same prayer has been repeated in another form in which a husband asks for the birth of a male child to his wife.[6] It is further prayed that male children by followed by male offspring alone and never by female ones.[7] The birth of a female child in the family did not cause much rejoicing and she was put aside while the male child raised aloft by the parents with expressions of joy.[8] After the *Panigrahana samskara* the texts recited

by the bridegroom are, "Bountiful Indra: Bless this woman with ten sons".[9] The prayers at the *Garbhadhana* ceremony also express anxiety for the birth of a son and medicinal herbs were given to the pregnant woman, in order to get a male child.[10] It would be more accurate to say, therefore, that male progeny rather than mere progeny was the purpose of marriage.

The *Punisavana* and the Garbhadhana ceremonies reveal the keen desire of the ancient Aryans for male progeny. The implements used and the *naksatras* selected for the *Simantonnavana* ceremony were to be of the male category, the object being mainly and evidently to secure the birth of a male child.[11] The same anxiety for male progeny is reflected in the act of placing a male child in the lap of the bride when she arrives at her husband's home after marriage. Not merely in the *Punisavana* but also in the *Simantonnavana* and other post-pregnancy sacraments prayers go up for the motherhood of sons. In the *Sosyanti* homa when the child is being born a Vedic verse is chanted which means 'a male child of such and such name will be born'. So persistently throughout the will-power is being exercised for procuring a male child. From the description of the Jatakarma ceremony it is clear that it has been taken for granted that a son has been born.[12]

From these references it is quite clear that people's anxiety for having male children was so great that not only in the special sacraments designed for the purpose but also in others prayers were constantly offered for sons right up to the birth of a child.

There are solid grounds for preferring a son to a daughter. The son always remained with his parents, continued the family-line, offered oblations to the ancestors for their spiritual benefits, was a support to his parents in their old age and helplessness and added lusture and glory to the good name of the family by his noble and brilliant achievements. He also helped his parents in carrying on wars which they always waged against the non-Aryans. These things could not be expected of a daughter. Rather, during the war time she was more a liability than an asset; after her marriage there was a change in her *gotra;* she migrated to another family and so she ceased to be of any direct spiritual benefit to her parents; substantial amount of money had to be spent on the occasion of her marriage; she had to be maintained in case of her husband's poverty or death; in the event of her remaining unmarried she had to be provided for by the apportionment of a share in the family property; and she had to be sedulously guarded against going astray. Besides, the painful feelings of the parents at the time of

their first separation from their daughters was another reason for the general dislike for them. The pathetic scene at the time of the departure of the daughter from her father's house has been vividly described by Kalidasa in his famous drama *Sakuntalam.*[13]

Another reason for the unpopularity of daughter was that her father, even though occupying a position as exalted as that of the king of gods, had often to put up with insults not only from his equals but also from his inferiors [14] and even after her marriage his anxiety for her future well-being did not cease.[15] Parents' excess of tenderness and affection and great concern for the daughter's well-being in life made them wish that no daughters be born to them.

Society expected a very high moral rectitude from a woman; it treated lapses of man with leniency but those of woman with severity. This sort of discrimination at first sight might be regarded as caused by unwarranted partiality for males, but if one looks closer into the matter at issue one may find reasons other than mere prejudice against woman. A man offending against the code of ethical conduct enjoys certain immunities from untoward consequences which a woman cannot. Thus, for instance, a man having an immoral commerce with a woman escapes the physical disability to which a woman is subject by reason of her physiological constitution. The girl runs every risk of conception. The stigma attaching to her illegitimate child and the odium sticking to her for being the mother of an illegitimate child put her to a positive disadvantage. Human society in every civilised nation has looked with positive disdain upon such a woman and also upon the progeny born of such a union. For all these reasons the necessity of exercising greater caution and vigil on an adolescent girl has been felt in all communities. Free love has every likelihood of degenerating into philandery which is hostile to the building up of a stable family. Though in India our lawgivers have made handsome allowance for an illegitimate son, such as *Kanina* and others, yet in course of evolution of social notions of public morality they tended to withdraw these concessions of earlier times. The need of preserving the purity of the lineage and of blood from contamination exerted a powerful influence on the constitution of the families. Very rarely a husband can connive at the misconduct of his wife. No man likes to have a son begotten on his wife by any other person. Religious prejudices also make for the restrictions imposed on a woman. These are some of the factors which were responsible for imposition of stricter discipline on a girl.

There may be psychological reasons also. One comes across

stories of unfortunate girls who were seduced by unscrupulous man for gratification of their animal passion. Kalidasa administers a warning against a free love. He is emphatic that a girl should be cautious and circumspect in choosing a lover as indiscreet love has every possibility of culminating in bitter hatred and humiliation.[16] Adolescent girls are generally emotionally overtoned and there is every risk of their falling a prey to the guiles of wanton youths who when their purpose is served sedulously seek to escape the moral responsibility of life-long partnership.

Despite all this the prevailing view of the age that the daughter was less desirable than the son was not acceptable to all the social thinkers. They realised that this tendency caused great harm to society and so they tried to discourage it, and championed the daughter's cause. They definitely succeeded in counteracting to a great extent the prevailing tendency of deprecating the birth of daughter.

Daughter's position during Manu's time

Manu, a practical social philosopher, is the strongest champion of this reformist school of thought. Aquainted with the laws of nature he knows fully well that if members of either sex do not get a fair deal in the social scheme of things, the very existence of human species will be seriously jeopardised. He thinks it puerile and against common sense to pray to gods to grant only sons and no daughters. This is why he does not show an exclusive anxiety for a male child and wants the incrense of progeny in general and not of sons alone. This is evident from the fact that for progeny he uses *'santati',*[17] a word of the common gender. Although many lawgivers have joined in a chorus of anxiety for a male child alone, Manu himself does not bless any such preference.

The *Pumsavana samskara* was performed very zealously to secure the birth of a male child and to effect the change of sex of the foctus.[18] Though his predecessers as well as his successors favoured this *samskara* Manu himself is silent on the point. This clearly indicates that he does not favour it.

It should, however, be noted that Manu in view of her mental and physical limitations does not allow a daughter more than what is her due. The statement of Manu, 'a daughter is equal to a son'[19] is meant only to correct the social prejudice against daughter who was generally supposed to be inferior to a son.

Manu regards the daughter as an object of highest tenderness.[20]

She was to be brought up with as much affection and care as was bestowed upon the male child; rather greater kindness was to be shown to her as she was physically more tender and her emotions too are more delicate. Manu makes every effort to see the position of the daughter exalted to its highest. According to him no householder should enter into any quarrel not even wordy warfare with her [21] as this, he thinks, will tell upon her tender emotions. It is most probably for this reason that she is exempted from undergoing the strenuous exertions of the Vedic studies.

Manu is very particular about the maintenance and well being of the daughter. He says that she is to be kept well dressed and gracefully decked in ornaments and that her father and her brother, if they want prosperity in their homes,[22] should have very kind regards for her. If she is not properly honoured and consequently feels unhappy all that is done in the house loses its sanctity and bears no fruit and the house is soon ruined.[23]

Manu regards an *agredidhisupati* (a man who marries a girl whose elder sister is yet unmarried) as unfit to be invited at a funeral repast.[24] This statement has a great significance. In the natural order an elder daughter should be married earlier than the younger one. But if the order is disturbed people start talking disparagingly about the elder one even though there be no defects in her; and this thing, besides wounding her feelings and sentiments, might have very far-reaching consequences on her career and harm her physically and psychologically. That is why Manu lays emphasis on the right of the elder sister to be married earlier than the younger one, and says that sin attaches to the man who marries the younger sister as he could have easily avoided the breach of law by not marrying such a girl.

Manu grants special privileges to maidens on ceremonial occasions. They are to be fed even before the *brahmanas*. Manu expressly says that the unmarried girls should be given precedence over the *brahmanas* in this respect.[25] It is for the first time that unmarried girls have been particularly mentioned by him in this context. Gautama, Baudhayana and Apastamba mention different categories of ladies who are to be fed earlier but the unmarried girls are not so mentioned by any of them.[26] Thus Manu has risen higher than others and his pronouncements reveal his most tender affection for maidens. In his opinion they are in no way less auspicious than the *brahmanas*. His view point indicates the noble sentiments of *sraddha* (regard) and *sammana* (honour) which the great-lawgiver has for daughter.

Not to speak of the daughter herself even her son and her husband are regarded as auspicious persons; a kind of special sanctity attaches to them. Manu says that on the occasion of a funeral repast they are to be specially invited and sumptuously fed.[27] He further says that the daughter's son, even though under a vow, is to be particularly fed on this occasion.[28] He regards him as one of the three purest things for a *sraddha.*[29] These rules clearly indicate Manu's highest regard for the daughter which has gone a long way in raising her social status. These things were done to impress upon her as also upon the society that she was in no way less honoured by, and beloved of, her parents than her brother.

Manu holds that if a father has received a bride-price for his daughter and the man who paid the price be dead, the girl is to be given to the younger brother of the man who paid the price and no further price is to be charged from him. But this course of action could be adopted only when the girl agreed to it.[30] She was not to be given away in marriage against her wishes.

Manu propounds the theory of *latutkarsa* which provides that the status of the progeny of the mixed blood could be raised to higher levels after a few generations. But this could be possible only through a chain of daughters being born to the pairs. Manu says, "If a female of the caste sprung from the *brahmana* male and a *sudra* female bears children to one of the highest caste, the inferior attains the highest caste within the seventh generation. Thus a *sudra* attains the rank of a *brahmana* and a *brahmana* sinks to the level of a *sudra.*[31] Kulluka a commentator of Manu, clearly explaining the meaning of this verse says, "When a *brahmana* marries a *sudra* woman the daughter born is *parasava* and if the *parasava* daughter marries a *brahmana* and the chain of such marriages continues for seven generations, then the progeny of the seventh generation will be a pure *brahmana".*[32] If anywhere in this process the daughter is missing the chain will be broken and the *jatyutkarsa* would not be possible because if a lower caste man married a higher caste woman it would be a case of *pratiloma* type of marriage which is very much condemned.

Eight forms of marriage were known in the days of Manu and before him. They are *Brahma, Daiva, Arsa, Prajapatya, Asura, Gandharva, Raksasa, and Paisacha.*[33] Although the last four of them are absolutely condemned by him[34] yet he has given them all a place in his work. One great reason for him to incorporate them is that they were traditionally well-known. Some hold that he mentioned them

only to condemn. But if we go deeper into the matter we find that this is not the fact; he has incorporated them in his work because they grant a kind of relief to such innocent girls as might have fallen a victim to the brutal passions of man. In forms of marriage like *Raksasa* and *Paisacha* the stigma attaching to the victimized maidens is removed and she is given the status of a legally married wife. Had such cases been dealt within a less liberal manner their effect on society would have been very disastrous, specially in those days when foreign invasions were frequent and chaotic condition prevailed everywhere. This foresight and broadmindedness of Manu towards the waylaid daughters of India is really a strong proof of his kindest regard for these innocent creatures who deserve to be shielded and safeguarded against the consequences of such brutal assaults at the hands of their fellow males.

His recognition of *kanina* and *sahodha* sons and giving them a place among the sons to be maintained by the father[35] is a further testimony to his liberal views towards the maidens. It was possible that the man who wronged her could not be caught hold of or might have somehow managed to escape the obligation of marrying the girl whom he had violated or the girl herself having developed a positive hatred against him might have refused to become the life-long companion of such a brute. Manu does not think it proper that the girl should, in any way, be penalised even though she be herself guilty and so recognises the *kanina* (kanya's son) and allows her to marry a man subsequently in a regular way. Similarly the mother of a *sahodha* son is also treated leniently and allowed to undergo a regular marriage.

One thing may be noted in this connection. Though on account of his sympathy for the daughter he recognises the *kanina* and the *sahodha* as legitimate sons yet from the point of view of social ethics he assigns to them a lower rank in society; he treats them as mere *bandhavas* and not as *dayadas*.

There are passages which lead to the conclusion that in ancient times girls were sometimes purchased for marriage. But Manu is very much against it and severely condemns the acceptance of money by the father of the girl from an intending bride- groom.[36] He says, "No father who knows the law must take even the smallest gratuity for his daughter; for a man who through avarice takes a gratuity is a seller of his offspring.[37] "Not to speak of higher castes, he does not permit this even to the *sudras;* he says, "Even a *sudra* ought not to take a nuptial fee when he gives his daughter in marriage, for he who takes a fee sells

his daughter in a disguised way".[38] This kind of selling seems absurd to him, for he says, "Nor, indeed, have we heard even in former creations of such a covered sale of a daughter for a fixed price called a nuptial fee."[39]

Manu places the *Asura* form of marriage among the unapproved ones because in it money is received by the father from the bridegroom in exchange for his daughter. Manu condemns even the *Arsa* form of marriage as here also some consideration in the shape of a pair of cows or bulls is received from the bridegroom. He says, "Some say that the cow and the bull given at the *Arsa* wedding is to be acceptable, but this is wrong since the acceptance of a fee, be it small or great, is a sale no doubt".[40] He further says that only seven generations are purified by the son born of a couple married in the *Arsa* form whereas those born of parents married in other approved forms purify a greater number of generations; the son born of parents wedded in the *brahma* form purifies twentyone generations, the son born of parents wedded if the *Daiva* form purifies fifteen generations and the son born of parents married in *prajapatya* form purifies thirteen generations.[41] Thus the condemnation of *Asura* form of marriage by Manu, undoubtedly, shows his disapproval of the acceptance of any sort of consideration for giving one's daughter in marriage.

But one thing is worth noting in this connection. Acceptance of money in itself is not condemnable. It is so only when the father accepts it for his own use. Manu very clearly says, "When the relations do not appropriate the amount for themselves, it is not a sale. The gift is only a token of respect and kindness towards the maiden."[42] So, if the father accepts the money on behalf of the daughter and hands it over to her after marriage there is no sin in it. In this case receiving of presents on behalf of the brides becomes a means of honouring her; it raises her in her own estimation as she comes to think that she is so good that she is being married after receiving proper presents. She rises in the estimation of the people also who look upon such bride as very handsomely fortunate and when out of the presents received ornaments are made for her and she is decked in them she looks beautiful. So the accepting presents on behalf of the bride is permitted.

The father is the real guardian and protector of the daughter as long as she is not married. It is his duty to maintain and look after her properly.[43] When she comes of age it is the father's duty to give her in marriage to a right person at the right time. If he fails in his duty he not only becomes an object of contempt[44] but also loses his right over

her. Thus it is not only his moral duty but also his legal duty to give his daughter in marriage to a deserving bridegroom at the proper age and time.

Giving his daughter in marriage at the right time is so important a part of the father's duty that even a king has to spend some of his precious time in thinking over the problem of his daughters' marriage.[45] This shows that the question of the marriage of the daughter was not to be taken up lightly but was to be considered in all seriousness; the king was to see that the unmarried girls of the subjects also were given in marriage in a proper way. Some take this provision of Manu to mean that the kings should give anxious thought as to how best to make use of the marriage of their daughters in securing alliances or cementing friendship with other kings. History also records numerous instances of girls' marriage being instrumental in forming political alliances or in persuading invaders to go back without plundering.

Manu is very particular about the selection of a good and deserving husband for the girl to be married. He says, "To a distinguished handsome suitor of equal caste should a father give his daughter in accordance with the prescribed rules though she may not have attained proper age".[46] This statement does not, in any way, imply that he prescribes early marriage of girls; it simply lays stress on the fact that she is to be married to a deserving groom. Manu's anxiety for a suitable bridegroom is so great indeed, that he would prefer a girl's remaining unmarried for the whole of her life to her getting married to a person destitute of good qualities.[47] The spirit of Manu's statement is that as a rule the girl should be given away before puberty; but even after puberty the father should not give her away until a qualified bridegroom has been found. A high degree of learning, bravery, physical beauty, right age, aversion to doing acts forbidden by custom and scripture, love for the bride and so forth might have been the good qualities of a bridegroom. Manu does not see eye to eye with Baudhayana who states that if a good husband is not available the girl may be given away even to one who is destitute of good qualities; she is not to be kept in her father's house after she has reached the age of puberty.[48]

That Manu does not allow the girls to remain unmarried throughout their life but only emphasises then marriage to a deserving husband, is quite evident from his following statements: "Three years let a damsel wait though she be marriageable, but after that time let her choose for herself a bridegroom of equal rank".[49] Here too he

rightly emphasises her marriage, with a person of equal rank and in doing so she incurs no guilt nor does he whom she weds.

Thus if the father fails in his duty of giving his daughter in marriage at the right time she becomes free to choose her own husband. But this self-choice was not to fall upon a suitable person. She was not to choose any and every body she liked; she was to choose a man of equal caste. Manu further says, "If not given in marriage she herself seeks a husband she incurs no guilt nor does he whom she weds".[50] The use of *vadi* in the verse shows that normally she was not to take recourse to self choice even if the father was slow in discharging his responsibilities towards her. Though there was no sin in such a self-choice yet it was not in keeping with the grace and modesty expected of a daughter. It was a right formally granted in law but seldom encouraged in actual practice. That is why Manu does not like to encourage self-choice on the part of the girl. In cases of self-choice he does not allow the daughter in such cases of self-choice to take away with her such ornaments as have been given to her by her parents or brothers; if she does so she is regarded as thief.[51]

Manu further says, that the bridegroom who takes to wife a girl under menses shall not pay anything to her father; for, the latter has lost his dominion over her in consequence of his preventing her menses from bearing fruit.[52] This shows that as is only during the childhood that the girl is to live under the tutelage of her father; there is no crime when she is taken away by a man after she has reached a higher age as the father's ownership over her has then ceased.

Thus there is no doubt about the fact that the father loses his right over his daughter on account of his failing to discharge this duty of marrying his daughter at the right time. But in spite of all these concessions made in her favour under special circumstances Manu does not feel comfortable in allowing full freedom in respect of self-choice to a girl. In fact while making this formal provision he hopes that the right will not be exercised by her except in cases of gross negligence on the part of the father.

Chastity is the highest virtue for a maiden in the eyes of the Hindu legislators. All the strict rules laid down for the protection of the women are mainly there with a view to preserving their chastity. Manu also lays down very strict rules for the protection of the honour and reputation of the maidens. He propounds that a maiden's respect in the society as far as that is well-founded should not be imprined in any way. He recommends a fine of one hundred panas to a man who

defames a maiden unwarrantedly: "The man who out of malice says of a maiden that she is not a maiden should be fined one hundred if he cannot prove her blemish".[53] Thus in the laws of Manu, as in European Jurisprudence, the personal right of a woman not to be defamed is subject to the limitation that it is not infringed by a truthful implication. But the fine imposed by the king in such cases of defamation clearly shows that the violation of this right of a maiden was treated as a crime. Most probably this punishment was to be given when the nature of the defamation was not of a serious type but simply something was said in a general way. In the case of accusing her of loss of virginity the man was liable to severer types of punishment.

Thus we see that Manu is very particular about the fair name of a maiden. The *Panigrahana samskara* was possible in the case of virgins alone. If a maiden had lost her virginity she was not entitled to this samskara. Manu says, "Nuptial texts are applied solely to virgins and nowhere among men to females who have lost their virginity, for such females are excluded from religious ceremonies".[54]

Manu's sympathy towards maidens is so prominent that he recognises the marriage of even defective girls. He does not want that a girl should remain unmarried on account of either physical or even moral defects in her. This regulation of Manu may be due to the fact that he apprehends the spread of corruption in society if there be a large number of even such unmarried girls in it. The only condition is that their defects are not to be concealed from the bridegroom at the time of their marriage. Manu says, "He who gives a damsel having first openly declared her blemishes whether she be insane or affected with leprosy or may have lost her virginity, is not liable to punishment".[55] But if fraud was practiced in such cases the marriage itself stood cancelled and the guardian of the girl was liable to punishment for practicing fraud.[56]

Thus we see that Manu recognises the marriage of the defective girls on principles of public policy and fair deal to all. Even the restriction of stating plainly her defects just before the marriage is in the interest of the girl herself and conducive to her well-being in future; for if her defects were concealed from the prospective bridegroom and were discovered later on after the marriage he might develop a hatred against her and subject her to harsh and even cruel treatment. This would have made her life more miserable. So rightly viewed this restriction is a blessing in disguise.

It may be mentioned by the way that though Manu is very keen on

the general standard of ideal purity, he is not very rigid in the code of ethics governing the marriage of a girl. He shows commendable flexibility in allowing in hard cases even the marriage of girls already pregnant. Thus one is forced to conclude that Manu shows a peculiar self-division and an inner discord on this issue. As a law-giver, interested in social discipline, he cannot help making rigid pronouncements about the categorically imperative standards of virginity. But temperamentally he is so made as to feel the softest stirrings of pity for the weaker sex. So he hastens to grant her concessions in view of the peculiar limitations of her sex. The code of Manu, therefore, shows an embarrassing tug between the sternness of a Moses and the pardon of a Mother Earth.

Laws against Adultery with Maidens

While dealing with laws against adultery Manu pays special attention to such cases where maidens are involved. Manu is the first law-giver to be so sympathetic towards them. According to him if in a case of adultery the maiden takes the initiative she is not liable to any punishment prescribed by law; almost the corrective method of confining her in her home may be adopted.[57]

While dealing with the punishment to be inflicted for the act of adultery with a maiden Manu attaches great importance to two main points; whether the maiden is willing or unwilling and whether the initiative is taken by the man or the maiden herself. In the opinion of Manu if the maiden is unwilling the crime is very serious. The adulterer is to deput to death immediately; but if she be a willing partner the seriousness of the crime is very much reduced even though the initiative has been taken by the man.[58] But if the maiden herself takes the initiative no serious crime is committed at all she is not to pay even fine. The liberal attitude of Manu towards the fair sex is very clearly seen in the following provision laid down by him. If a lower caste man approaches a higher caste maiden he is to be put to death immediately but if a higher caste woman approaches a lower caste man she is only to be confined in her home.[59] When she loses all charms for him she may be set at liberty. So even though the nature of lapse in both the cases is the same- intercourse between a higher caste maiden and a lower caste male- the punishments for the two sexes are quite different- very severe for the male but much too lenient for the maiden.

The above are the provisions of the penal law when the crime committed is of a very serious nature. In cases of minor offenses he

says that if a man through insolence forcibly pollutes a maiden two of his fingers shall be cut off instantly and he shall pay a fine of 600 *panas*.[60] This applies to cases of penetrating the finger into the female organ of an unwilling maiden as Manu later on says that if a man of equal caste defiles a willing maiden he shall not suffer amputation of his fingers but shall have to pay a fine of 200 panas only so that he may not repeat such an act in future.[61] Thus we find that the element of consent on the part of the maiden reduces the rigour of the punishment to a very great extent.

Then Manu proceeds to describe the cases of pollution of the maiden by member of her own sex. He lays down that a maiden who pollutes another maiden must be fined two hundred *panas*. Pay the double of her suptial fee and receive ten lashes. But if a married woman pollutes a maiden she shall instantly have her head shaved or the fingers cut off and he made to ride through the town on a donkey.[62] As the offense in such cases is quite unnatural Manu treats them with more seriousness. But here also we find that when the offender is a maiden the punishment is lighter but when she is a married woman the punishment is heavier. Though in view of the seriousness of the crime the maiden is fined by the king and has to pay to the father of the wronged maiden a sum of money amounting to double the dowry suited to her rank and status and she also receives ten lashes yet her guilt is not given much publicity. But if the married woman is the offender her guilt is publicly proclaimed by making her ride an ass and parade among the roads.

An unmarried girl being brought up within the four walls of her father's house is quite inexperienced and unaware of the consequences of her own doings. Naturally, therefore, she is swayed by her natural passions which are strong enough at the time of puberty and which she has no means to assuage. Hence a lighter punishment is prescribed in the case of the lapses of a maiden. But married women have got their husbands to keep their sexual propensities in balance. So when they violate a maiden the crime is of a greater enormity and consequently the punishment is heavier.

Pollution of girls led not only to legal consequences but also to social and religious opprobium. One who pollutes a maiden is treated as an out-caste by Manu and is not to be invited to a *sraddha*.[63] This shows the social stigma which attached to the person who defiles a maiden.

Further, in the sphere of religion also such pollution constitutes an

upapataka (a minor sin) and expiatory rites are prescribed for it.[64] But if the pollution is of a serious type, in which the discharge of seminal fluid has taken place, then the act is not a mere *upapataka* but is equivalent to a *mahapataka* and the expiatory rites prescribed for a *gurutalpagami* and to be performed by the offender.[65]

Samskaras for girls

The *samskaras* are purificatory rites and ceremonies prescribed by religion and one performed for sanctifying the body, mind and intellect of an individual so that he or she may become a full-fledged member of the community. Manu says, "By burnt oblations during the pregnancy, by the *Jatakarma,* the *Chauda* and the *Maunjibandhana* is the taint derived from both the parents removed from twice-born men".[66]

Girls also have to be prepared for the task of daily life as the boys. Being the potential mothers of the race they are the custodians of racial culture. Harita aptly says how can a woman who is herself not sanctified produce sanctified men.[67] *Samskaras* are, therefore, as much needed for them as for boys. This is the reason why Manu says, "The whole series of the sacraments must be performed for females also in order to sanctify their body at the proper time and in the proper order but without the recitation of sacred *mantras".*[68] This ban on chanting mantras in case of girls is apparently due to their complex and sacred nature. The society did not brook even the slightest mistake in their pronunciation for mastering which the girls did not get sufficient time on account of their being married such earlier than the boys. Moreover, the peculiarities of their bodily and mental make-up also stood in their way.

Manu has very strict rules regarding the performance of these *samskaras* at the proper age and in their proper sequence.[69] And these rules are to be strictly observed with equal force even if the *samskaras* are performed for the sanctification of girls.

But just after the verses referred to above there occurs another verse which leads to some confusion. It says, "The nuptial ceremony is stated to be the Vedic sacrament for women; serving the husband equal to the residence in the house of the teacher and the household-work the same as the daily worship of the sacred fire".[70] But this verse, as it appears to my humbleself, does not give the views of Manu himself; the text and also the context force us to arrive at this conclusion. Just in the previous verses Manu has said that all the

samskaras inclusive of the *Upanayana* ceremony are to be performed for girls but without the sacred mantras. How can then he hold that the *Upanayana* is to be dropped altogether and substituted by marriage in case of girls? From the use of the word *smrtah* (considered) in the above verse we can safely conclude that this verse does not express the opinion of Manu himself but may be mere expression of a contemporary view.

The verse in question may at the most be taken to mean that if in a particular case the *Upanayana* ceremony of a girl is not performed and she is given away in marriage, her marriage itself would be equivalent to *Upanayana* and she would not become an out-caste like her brother, missing the *Upanayana*, but would be quite competent to discharge the duties attached to her household. Sure enough, this verse cannot be taken to signify that according to Manu marriage is to take the place of *Upanayana* in the case of girls in general.

From what has gone before we can easily see that Manu is very particular in prescribing the *Upanayana* ceremony for girls, though he spares them the rigour of chanting *mantras* on such occasions he never exonerates them altogether or debars them from undergoing this samskara in the matter is perfectly right because it helped the girls to maintain their dignified position in the society without being subjected to the strenuous discipline of the ceremony.

In the matter of naming the girls special rules are laid down from the very ancient times. Manu is very particular about the *Namakarana Samskara* of girls. He says, "The names of women should be easy to pronounce, not imply anything dreadful, possess a plain meaning, be pleasing and auspicious, end in long vowels and contain a word of benediction".[71] These rules are based on very sound psychological principles. The names of ladies should be easy to pronounce and sweet to hear. Nature has differentiated between men and women by giving them different physical features. Men are hardy and robust; women are tender and lovely. Therefore, only such names are to be selected for women as are in consonance with their natural built and disposition. That is why female names should end in a and z as these vowels are comparatively pleasant to hear. The uneven number has generally been considered to be more auspicious and magical.

According to Manu women are the embodiment of auspiciousness and benediction.[72] So it would be quite in the fitness of things if their names also indicate something good and noble. The first impression that we form about a person is generally based upon his name. Good

names are suggestive of good qualities in a person. The meticulous attention paid to the naming of a girl is due to an innate feeling that a girl's name should have an auspicious aroma about it and should be immediately and infallibly suggestive. A good name, like a beautiful face, is a perpetual letter of recommendation; hence its practical and social importance. Simplicity of names prescribed by Manu is based on sound grounds of aesthetic relish. Names, learned and obscure, call for gymnastics of intellect and inhibit the melting and mingling of hearts so necessary for social intercourse. Besides, simple names as against difficult ones marked with academic pedantry are more musical and mellifluous to the ears. Names, according to Manu, have to be simple howsover high might be the cultural watermark attained by a society in its evolution.

Manu holds such strong views in this matter that he declines certain girls is not fit for marriage on account of their bad names alone. He observes, "Nor one named after a constellation, a tree or a river, nor one bearing the name of a low-caste or of a mountain, nor one named after a bird, a snake or a slave, nor one whose name in spires terror.[73] According to R.B.Pandey, "The most probable reason seems to be that such names were current in the non-Aryan peoples with whom the Aryans were not willing to form matrimonial alliance".[74] But though this, may be one view of the thing but it was not quite plausible in the eyes of Manu. To think that the society in which Manu moved and flourished could be seething with such a racial hatred and ethical aversion on such a mass scale as to have taken a vow against the names of the enemy race is simply drawing upon imagination. Such taboos might have existed in the scheme of primitive clans who did not have the slightest influence of culture and education to soften their rude antagonism. Manu was certainly not legislating for such a backward civilisation. The first principle governing the choice of names of the girls seems to be aesthetic, immediacy of appeal; a name that wins at once and guarantees the very best of the first impression and easy reception. Names likely to jar with their harsh consonants or likely to evoke hideous images or attributes lacking in feminine grace are naturally not desirable. The names of low-caste women or those of slaves are generally not very pleasant to hear. It does not require any explanation as to why the names inspiring terror or referring to snakes should be avoided. Birds by their very nature are migratory and thus could never be tokens or symbols of a settled domestic life. Trees are generally supposed to be the abode of evil spirits and deities. Rivers

have always a downward flow and carry with them all sorts of dirt and filth and may, therefore, be supposed to symbolise all sorts of contamination and lowness which certainly cannot be said to be a desirably thing in a woman. Mountains symbolise sterility, hardness and masculinity which can hardly be appreciated in a woman. And the names of a few constellations only can possibly be treated as suitable names for women. But all these have got such astronomical significance behind them as render them undesirable for being chosen as the names of girls whom everybody would wish to lead a noble, chaste, pure and happy life. For example, Bharani has Yama (god of death) as her presiding deity *Krttika* is the object of love of a number of planets; Rohini has unhappy relations with her husband, moon, and so on and so forth. Besides, the association of *naksatras* might give the husband a psychosis and mental complex about his destiny and keep him brooding over his career and life. And most of the *naksatras* sound awful when pronounced. These might be some of the possible reasons why Manu has forbidden the girls to be named after the *naksatras*.

Proprietary Rights of the Daughter

The position of the daughter regarding her rights of succession and inheritance to an ancestral property has also received due consideration from Manu. First of all we shall inquire into the rights of such daughters in the paternal property as had brothers.

Manu observes, "After the death of the father and of the mother the brothers being assembled should divide among themselves in equal shares the paternal estate, for they have no power while the parents live".[75] This clearly indicates that sons have no ownership by birth. Their ownership accrues on the cessation of the joint ownership of the parents over the property. This shows that Manu upholds the doctrine of *Uparamasvatvavada*. The question of the partition of the ancestral property does not arise so long as any one of the parents is alive; it can be taken up only when both of them are dead, atleast in the eyes of law.

There are, of course, certain references in Manu to cases where sons are divided during the life time of their parents and have got shares in the ancestral property.[76] But such cases were very few and far between and might have occured when the father partitioned out the property among his sons at his own initiative.

This rule, however, has been rightly interpreted by Jimutavahana who says, "Even though the father be dead there should be no partition among the sons during their mother's lifetime as is indicated by the

dual number form 'pitroh"'.[77] Dayatattva also supports the same view when it says, "It is not proper for the sons to divide the property when the mother is living".[78]

Thus in the opinion of Manu sons have no right of partition during the life-time of their parents and when the sons themselves have no such right there can be hardly any question of the daughters having it. She is entitled only to being properly looked after and maintained till she is married. Next to maintenance a daughter has the right to be given away in marriage.

That Manu does not give the daughter any right of partition in the paternal property even after the death of her parents becomes evident from the following facts. While considering the partition of the father's property Manu has mentioned only the brothers and not the sisters.[79] Had he meant to give anything to the sister also, he would have made a clear mention of it as he has done in respect of the partition of the mother's property.[80] Manu does not include sisters in the word 'brothers' is further proved by his well-reasoned statements regarding the right of a brotherless daughter in her father's property.[81] Had she been entitled to a share even along with the brothers there could have been no reason for Manu's arguing so much about her rights if she were brotherless.

Manu says, "But to maiden sisters the brothers shall severally give portions out of their shares, each out of his share one-fourth; those who refuse to give it will become outcaste".[82] Here he uses the word 'dadyuh' (should give) in connection with the allotment of shares to the unmarried daughters. Here the use of da is very significant. It clearly indicates that Manu does not recognise the right of the daughter in the paternal property, otherwise da would become meaningless. A man is spoken of as taking a thing only when he is its owner and no one speaks of such things as to be given to him; hence it is that no one speaks of the brothers giving to a brother both being owners; and whenever the word 'giving' is used it is only when the recepient is not the owner of the property concerned". The words 'patitah syuh aditsvah' further indicate that the giving of the one-fourth share to their sisters is more a moral duty of the brothers than a legal one.

And another statement of Manu that one-fourth should be given to the unmarried sisters alone and nothing to the married ones does not leave any shadow of doubt that the share given is an allowance for meeting the marriage and other expenses of the unmarried daughter; it is not share on account of her inherent title to her father's property.

Had she an inherent it would not have been contingent upon her being married or remaining unmarried.

But Manu does grant a share to a daughter in her mother's property he says, "But when the mother has died all the uterine brothers and the uterine sisters shall equally divide the mother's state".[83] Here he concedes legal rights to the daughter in her mother's property and hence he neither uses the word da nor makes any distinction between married and unmarried daughters.

Thus though Manu does not accept the right of the daughter in her father's property yet he makes it incumbent upon the brothers to set apart a portion of the patrimony for their sister's marriage expenses.

Marriage was obligatory for girls. So Manu wisely makes provisions for the reasonable expenses of marriage and makes it a necessary charge on the paternal property in the case of the girl who was not married in the life-time of her parents. But he makes no provision for the marriage-expenses of the girl in the life-time of her parents because they being impelled by natural love and affection are expected to do their best for her. But when both the parents are dead and the brothers come to a partition the sister's condition becomes precarious; it might possible that the brothers being not very enthusiastic about it might not like to spend a decent amount over the marriage of their sister and consequently she might not be married to a suitable person and had to pass her life in misery. That is why Manu makes it compulsory for the brothers to set apart one-fourth of their share of meeting the expenses of the marriage of their unmarried sisters.[84]

As stated before the allotment of the share to the sister is meant for meeting her marriage-expenses in particular and for no other purpose. Had it been for some other purpose it would have been given to all the sisters whether married or unmarried. Hence the meeting of the marriage-expenses of the sisters is the sole consideration in making the allotment of shares to them. The Mitaksara says, "One should not explain that the word 'one-fourth' is not to be taken literally and the unmarried sister gets only as much as is necessary for her marriage, since such an explanation is opposed to the express words of Manu and since Manu declares sinfulness as the consequence of not giving one-fourth share".[85] Medhatithi also concurs with Mitaksara in this interpretation.[86]

Manu's stress seems to be on a decent marriage suited to the status of the daughter's family to ensure which he has recommended this

allotment of the one-fourth share, this setting apart of property is only a safeguard against an adverse situation which might arise if the brothers chose to squander away the property, leaving nothing for the marriage of their sisters. The Dayabhaga school as right when if lays down, "If the ancestral wealth is ample, then she should get only as much as is necessary for her marriage".[87]

We find that Manu has made a very practical approach to the problem. He recommends one-fourth share and thereby provides for the marriage-expenses of the daughter. At the same time by allotting one-fourth share he clearly indicates that the brothers should not unnecessarily waste money over the marriage of their sisters. The allotment of the one-fourth share clearly indicates that in marriage unlimited expenses are not to be incurred.[88]

As a practical philosopher Manu could not have held that the property was actually to be handed ever to the daughter who might use it in anyway she liked. At best the daughter could have been responsible for its safe custody till her marriage. In ordinary cases the shares received from different brothers might have been pooled together and put under the charge of a responsible person who was expected to arrange for her marriage with that amount; and probably she was not allowed to take away with her to her husband's house the residue left behind after meeting the expenses of the marriage. The share, being inclusive of immovable property, would have created a lot of trouble if the daughter took it away with her. Manu as a foresighted law-giver did not leave room for such inconvenieces and the creation of bad blood later on. Besides, this would have led to an unnecessary fragmentation of property.

All these facts lead one to the conclusion that Manu allows 'one-fourth share' for no other purpose except meeting the mere marriage-expenses.

According to the strict interpretation of the rule such a give as has no uterine brother would go without a share in the family property, as it is only the uterine brother that she is to get her share from.

The law, however, cannot cover satisfactorily all cases of the family population and the parental budget. Let us take two extreme cases; a family with one brother and eight sisters and another family with one sister and eight brothers. In the first case the one-fourth share of a single brother may constitute in a family with one sister and eight brothers. In the first case the one-fourth share of a single brother may constitute in a family of low parental income quite a problem for the

army of sisters. The total pool may be a miserable pittance not enough to cover the bare needs, much less finance the nuptial ceremonies. In such cases, however, Manu ought to have provided an extra surcharge to meet this grave disproportion to a reasonable extent. But the law even as it is can be defended on the ground that no brother arrayed against such a large number of sisters should be made to suffer to the point of ruination in providing for extraordinary biological accidence. The ideal sentiment in the provision contemplated by Manu seems to be an ennobling spiritual satisfaction on the part of the brother that he has contributed his utmost to the well-being of the sister. If the sister happens to be many sisters the fault is not of the brother but of the stars. The division of property basically speaking is an expression of the ideal of self-giving and of the nature of a purificatory *samskara* which saves brothers from a monopolistic greed and selfish deposits at the cost of love and is based on the ideal of sharing the benefits of life with sisters born of the same parents. Such a little to the family-property is conceived of to disabuse the brother's mind of a superiority complex and the sister's of a cramping inferiority complex. But if the sisters on the strength of their brute number were to clamour for shares so large as to send the brothers a begging the whole attitude of charity associated with sisters would degenerate into a brutish nasty scramble for bones. In the matter of distribution of the ancestral property Indian codifiers attach more importance to the spirit than to the mathematical rigour. In such case trust in the love and good sense of the brother would have been a more cementing and enduring factor than any mechanical legislation.

In the second case the anomaly that arises is of a different nature. Eight brothers contributing severally at the rate of the one-fourth of each one's share might make a cumulative gain for the sister whose share thus obtained might far exceed the individual share of each of the brothers. This might cause some amount of heart-burning in the brothers against her. The more charitable view, however, will be that since each brother has contributed only but one-fourth of his own share he does not incur any great personal loss. And since all the brothers have contributed to the share of the sister the situation would lose much of its sting. Besides, she is the only sister and the brothers are many; hence they may see their way to be reconciled to the position.

All these discussions lead us to the conclusion that the great law-giver has shown a uniform anxiety for the maintenance and well-being of the daughter. He does not give any thought to her as long

as her parents are alive, because they are expected to do all that they can for her. But as soon as the parents have passed away his anxiety for the daughter begins because of the great limitations that she is subject to in this world. The most important thing in her life is her marriage. She is there in her father's house only so long as she is unmarried; and as soon as that *samskara* is performed she leaves it and goes away to another man's house. So Manu has been steadily careful about such a vital stake as the marriage in a girl's life.

Now we pass on to the question of the share of a daughter in the property of her mother. Manu, provides, "When the mother has died, all the uterine brothers and uterine sisters shall equally divide the mother's estate.[89] The daughter is not legally entitled to receive any share in the property of the father; it is the brothers who contribute severally, parts of their individual shares to her. So in essence the daughter is entitled to share the transferred property of her father, when in the eyes of law it has for all practical purposes become the brother's share. But such is not the case with the mother's property. In it she does receive a share. There is another difference also. In the former case the sister's share is a special pool, an adhoc arrangement, for expenses incidental to her nuptial ceremony but she could not carry the residue to her husband's house. But the share which she is entitled to get in the property of the mother, could be carried by her to her husband's house without any let or hindrance. From the description of the mother's property it is clear that it generally consisted of movable articles such as ornaments, clothes and other household chattel and so there could not have been much difficulty if the daughter chose to take them away; whereas the property received from the father or brothers might be of a complex nature consisting of immovables also.

Manu holds that the share in the mother's property is to be given to all the sisters, whether they are married or unmarried, or whether they are well-placed or ill-placed in life.

Manu further provides, "Even to the daughter of those daughters something should be given as is seemly out of the property of their maternal grand-mother on the score of affection".[90] Here it is to be noted that the grand- daughters also are not entitled to any share in the property but only something may be given to them as a token of love and affection. In such cases also Manu does not make any distinction between the married and the unmarried ones.

Now the rights of a brotherless daughter. First we shall examine the provisions about her share in the paternal property.

We have already seen that Manu does not give her the right to seek partition in her father's property if she has brothers; she there is to be given only a marriage-allowance amounting to one-fourth of her brother's share. Even if she were brotherless Manu does not give her the right of inheritance or partition in her father's property for conferring spiritual benefit on the original owner of the property, mere blood- relationship is not his prime consideration. No doubt the daughter is as much a blood-relation to her father as the son is, but in the matter of conferring spiritual benefits on the parents she is inferior to the son. The change of *gotra* which marriage entails makes her spiritually undeserving and unfit for offering *pindas* to her parents. The concept of share in the property in Manu's mind is in essence a right to a portion of property as a consequence of the ability and fitness to confer spiritual benefits on the owner of the property. That is why he does not allow even a brotherless daughter to succeed to her father's property.

To meet such critical situations Manu rules that the daughter shall be formally appointed as a *putrika*. This appointment shall be affected in the following manner. The father shall declare as a procedural formality, the male child born of her shall perform my funeral rites.[91] Once again the sharer derives the title to a share from his or her capacity to confer spiritual benefits. As regards the fitness of such a male child for performing the rites Manu says, "Between son's son and the son of a daughter there is no difference, neither with respect to worldly matters nor to sacred duties, for their father and mother respectively have sprung from the body of the same man".[92] Emphasising the fitness of the daughter's son for offering *pindas* to his maternal grandfather Manu says, "Between a son's son and the son of a daughter there exists in this world no difference; for, even the son of a daughter saves him (who has no son) in the next world like the son's son".[93] In the absence of the son he justifies heir take the estate while such a daughter is there".[94] This may lead one to think that Manu is inclined to give the daughter as such the right of inheritance in her father's property. But that is not literally true, because the appointment of the daughter is essentially not as a substitute or as one equal to the son, for the father's mind is on the fitness of the daughter's son for conferring spiritual benefits on him. The right of inheritance, in the ultimate analysis of things, belongs to a son though he may not be his own. From all this it can be easily inferred that stress is laid upon the male and not the female offspring.

Manu then says that the son of the appointed daughter shall take the whole estate of his maternal grandfather who leaves no son behind; he will first present a funeral cake to his mother, the next to her father and then to her father's father.[95] But the son of an appointed daughter shall also take the estate of his own father who leaves no other son; he shall then present two funeral cakes, one to his own father and the other to his maternal grandfather.[96]

But the arrangement, however simple, did not always ensure a smooth sailing. What was to be done if no son was born to the appointed daughter or her son died after her appointment? And a difficult situation might also arise if a son was born to the father after the daughter had been appointed as a *putrika*. In such a case a division of the property might have to be made between the son of the appointed daughter and the son of the daughter's father.[97] Then, if the appointed daughter by accident died without leaving a son, the husband of the appointed daughter was entitled to get the estate of his father-in-law in the capacity of his wife's heir.[98] In the first case the appointment of the daughter led to an unnecessary fragmentation of the property and in the second case the very object of appointment, to serve the purpose of conferring spiritual benefits, was defeated and yet the property was transferred to another family; although without such appointment it would have gone to some of his agnates who might have been competent enough to offer him *pindas* and thus in the long run it might have been helpful to him in deriving some spiritual benefits from them. In other words, this would mean that the chances of getting spiritual benefits through the appointed daughter became rather precarious; those who were competent enough to confer this benefit on the man were deprived of a share in his property for the simple reason that they happened to be a bit distant to him in relationship.

To remove this difficulty Manu suggests that two or more daughters might be appointed so that there might not be any difficulty in getting, at least, one male child for securing spiritual benefit through him.[99] But this would have led to other types of complications. For if a sonless man appointed a number of daughters and every one of them was blessed with a few sons the property of the father would have to be parcelled out into so many fragments; and this would create ill-will and animosity among them, besides. Moreover, the so many sons of the so many appointed daughters might feel annoyed at having only a very small portion of the property and consequently might become indifferent to it and thus feel reluctant to perform even the post mortem

rites of their grandfather, every one relying upon and looking up to the other for the discharge of the obligations.

So in order to provide against all these difficulties Manu modifies the existing law and recommends that one of the daughter's son should be chosen by the father for conferring spiritual benefits on him and the son so appointed should take away his whole property. Manu says, "Through that son whom a daughter, either not appointed or appointed may bear to the husband of equal caste, his maternal grandfather has a son's son; he shall present the funeral cake and take the estate".[100] In this way the crisis might be resolved.

But one point deserves special notice. While dealing with the partition of the paternal property among brothers Manu has been very particular about the well-being of the unmarried daughters. Each of them is to be given the one-fourth share of her brother as her marriage-allowance. But when we come to the brotherless daughter the position is quite different. Naturally one would have expected that in such a case she would have been allowed to get more rights and better claims in the father's property. But the case is just the reverse. A sister with brothers had certainly better prospects than a brotherless one. The reason appears to be that when the father had a son he was not worried about getting spiritual benefits after his death; the sons were there to do these duties towards him. But when he had no son but only daughters the question as to how the spiritual benefits were to be received, worried the old man's mind. Manu fully appreciating his difficulties provides that the whole property of the sonless man should go to the son of the daughter whom he selects for the purposes. But while doing so he has altogether lost sight of unmarried daughters left behind and makes no provision for them. Although he provides that a brotherless unmarried daughter is entitled to the whole of the mother's property, yet this was no solution to the problem. The mother's property was generally very insignificant and that also had to be shared by all the unmarried daughters. The consequence of this can be better imagined than described in so many words. It is really strange that Manu has made no provision for the unmarried daughters left unprovided.

Let us now turn to the question of the rights of such a daughter in her mother's property. In this context Manu says, "But whatever may be the separate property of the mother that is the share of the unmarried daughters alone".[101] So far as the married ones are concerned they are entitled to nothing. This might be due to the fact

that they do not stand much in need of help and so it is immaterial whether they get any share in the mother's property or not. This might be due to two things. Firstly, as they are already married there is no need of any money for them. Secondly, they could get the whole of the property of their soneless father as the appointed daughter or atleast a share in it if there were more than one such daughters. So Manu has given no share to a married daughter in the property of her mother.

Taking all the provisions regarding the inheritance of property by the daughter into consideration it can be said that Manu takes all possible care for her well-being. For the marriage of the unmarried daughter he has made provisions suited to the family- status and for that purpose they have allowed her a share along with her brothers in the property of the father by way of marriage-allowance. But he has not given her any inherent right in her father's property even if the father had no son of his own. The principle is that only he could be entitled to get the property of a man who would confer some spiritual benefit on him; and since according to the established scriptural tradition a daughter was not fit to confer such benefits she was cut off with a shilling as it were. On the other hand her title to get a share in her mother's property has been recognised by all. This means that even though she could not confer any spiritual benefit on the mother, the mother in her love could not help making a selfless gift. The paradox of the father's position was that because he was interested in the spiritual benefit his gift was tainted and less spiritual but the mother's gift was one of pure love and affection and hence decidedly more spiritual.

Education

In the Vedic age education was mostly centered in the family; brothers, sisters and cousins probably studied together under the family elders. Subsequently when specialisation became a necessity students had often to leave their homes and go to distant places to study under celebrated teachers. Occasionally female students also had to go to them for their advanced studies. This is clear from the examples of Atreyi in the *Uttararamacharita*, who was reading under Valmiki along with Lava and Kusa, and of Kamandaki in the Malatimadhava who was being educated along with Bhurivasu and Devarata. But this sort of co-education was fraught with dangers of moral lapses. The stories of Kahoda, Sujata, Ruru and Pramadvara narrated in the *Puranas* point to the undesirable effects of such education. So people

generally preferred to coach their daughters at home and did not like to send them out to teachers for advanced studies. Writers like Harite lay down that girls should be usually taught at home by their male relations. Manu too does not seem to approve of the practice of sending the girls away from their natural guardians for studying along with boys under male teachers as chastity, which is the cardinal virtue of girls in his eyes was likely to be jeopardised.

The difference between the meaning of the words *acharya* and *acharyani* in Panini and his reference to *Ksatrisalas* (girls, boarding houses) may lead to the inference that there existed some lady teachers who undertook to teach girls under them and also arranged for their stay in separate boarding- houses.[102] Yet it is just possible that because of paucity of accommodation and lack of necessary equipment a fairly large number of girls had to stay at home and give up all hopes of higher studies. Even if there did exist good institutions in a fairly large number and with sufficient provisions for catering for the needs of lady scholars keen on the persuit of advanced learning but it would be too much to expect that they were there in a very ideal condition and immune from all kinds of dangers. So probably lady-students had to count themselves with such educational attainments as were possible in the limitations of their parental environment.

In the earlier period Vedic literature was smaller in volume which later on became quite formidable in bulk with the splendid outburst of ritualistic and philosophical literature in the shape of the Brahmanic and the Upanisadic texts and commentaries. Vedic sacrifices became much more complex and a good deal of time had to be devoted during the student-life to master their details. Full mastery of the Vedic lore thus required a close and exacting study for about sixteen years at least for which boys alone could find sufficient time before their marriage at twenty-four; the girls, however, had not this advantage as they had to be married at fourteen or fifteen; nor was it expected that they could carry on their studies after marriage because of the inevitable handicaps in the shape of their duties and responsibilities in the father-in-law's family. Study and the day to day commitments and cares of a married life go ill together. Manu realised the difficulties of the married girls and so did not encourage the idea of serious and strenuous studies on their part.

In the earlier period the Vedic literature was not regarded as revealed. It was studied in the spirit in which we study the devotional songs of the saint poets. People were not very particular about each

original word used in the text. A difficult word could be replaced by an easier and the more current one.[103] They cared more for the gist and sense of the songs than for the actual words used in them. But during the period under review, the Vedic literature had begun to be regarded as revealed. The words in it were the words of God and therefore, had to be preserved in their pristine form. Extra-precautionary measures were adopted for preventing corrupt expressions or interpolations from creeping into the Vedic text by insisting on the four-fold discipline of the *padapatha, kramapatha, jatapatha and ganapatha.* It was believed that if there was a single mistake in accentuation or if a Vedic *mantra* was misapplied, it would not only fail to procure the desired result but would also bring about the ruin of the reciter.[104] This necessitated prolonged study with meticulous care for about twelve years at least. We have seen that on account of their earlier marriage the girls could not do so. Besides, the strain of such long-drawn studies might tell upon the health of the weaker sex. It was, therefore, only meet and proper that the women were not allowed to invite on themselves and their relations those dreadful calamities which were sincerely believed to result from an incorrect recitation of the Vedic *mantras*. In denying to them the study of the Vedas the object was not to humiliate them but only to protect them from dire consequences resulting from defective recitation of the Vedic *mantras.*[105]

This view of things gets further support from the fact that different types of education are provided for even the male members belonging to the different classes of people. For example, Manu seems to recommend the study of the Vedas for the *brahmanas* only as is suggested by the use of the words *vipra* and *brahamana* at the end of the chapter on education.[106] This might be due to the fact that the nature of the syllabi and the mode of teaching of the subjects were such that these studies required to be pursued exclusively; and only those could profit by them that were wedded to them life-long, which the *brahmanas* alone and none else could do.

In the education of the *ksatriyas* importance is to be given to their training in the arts of warfare and administration and not so much to the study of the *Vedas*.[107] The kings and the rulers alone were required to be acquainted with the Vedic lore along with the military and other sciences. Similarly the details of education meant for the *vaisyas* given in the *Manusmriti* lead one to think that they were to receive that kind of education which might be helpful to them in their everyday life i.e.

which might help them in carrying on agriculture, trade and business efficiently.[108]

Even with the *brahmanas,* in general, the Vedic studies were not very popular. The great strain involved in the studies of the Vedic literature made them reluctant to pursue them eagerly. Study of the subsidiary sciences was becoming popular with them also. Maitrayania Upanisad VII. 10 inveighs against the *brahmanas* studying non-Vedic texts. This shows that they had been trying to shirk the study of the Vedas. Man too raises his voice against the *brahmanas* taking to the non-Vedic studies and tries to impress upon them that their first duty is to study the Vedas.[109]

From what has gone before it can be easily seen what an arduous task it was to study the Vedas properly and usefully and from which even the male persons tried to get away, although they were by nature much stronger than the females. In such circumstances it is no wonder if Manu decided to stop women from undertaking such difficult studies. It was in their interest and for their well-being alone that the great law-giver put a ban on the Vedic studies for them. It was not due to any prejudice against them nor that he thought them to be of inferior intellect. So the charge against him that he has been unjust to the women-folk in this respect is not justified.

Except that they were debarred from the study of the Vedas and reciting the *mantras* there was no other restriction imposed upon their receiving a general education. From the position they occupied in the society it is evident that they were not kept wholly uneducated and ignorant. They could take part in the religious activities of their husbands, offer oblations and entertain guests.[110] They even commanded great respect from the pupils of their husband which would look well only when they were themselves educated.[111]

So far as the art of house-keeping was concerned girls were given good training in it. The duties assigned to them in the home, clearly show that in the domestic affairs they were all in all. They were to control and regulate the family-budget and keep everything neat and clean and in good order. Over and above this, they were given some training in the cottage industries also such as weaving, spinning and lace-, making etc.[112] This was meant to enable them to-earn a subsistence for themselves and for their children in times of hardship and emergency. Manu thinks that women's sphere of action lies primarily in the home for which not much of education is needed. And by the time of the commentators even the general education of girls

appears to have deteriorated.

We now close this chapter with Jayaswal's observation regarding the position of the daughter in Manu. He says, "Although in the Manava daughter is not an heir in the list of heirs yet her position is very high. Nowhere in Hindu Law her legal position is so tenderly defined, on no other subject the severe author of the Manava spends so much sentiment. For a moment he forgets that the daughter is a woman, the object of frown of all masculine thinkers from Buddha down to Nietzsche. He knows her only as a daughter. She is, he says, to be always excused".[113]

Notes and References

1. *Vedic Religion,* p. 165
2. एतरेय ब्राह्मण VIII 31.1
3. *ibid.,* VII, 18
4. *A.V.* VI, 2.3
5. *ibid.,* VIII 6.25
6. *ibid.,* VI 9.10
7. *ibid.,* III 23.3
8. Tait, 5 VI 5.10
9. *A.V.* III, 3.21
10. *ibid.,* III 2.32
11. *R.V.* X, 78 7-9
12. *Baudh. G.S.* II 1.1
13. *Sakuntalam* IV 8
14. *Mbh* II 119, 35-36
15. पुत्रीति जाता महतीति चिन्ता कस्मै प्रदेयेति महान वितर्क: ।
    दत्ता सुख प्राप्स्यति वा न वेति कन्यापितृत्वं खलु नाम कष्टम ।।
    Panch Mitrabheda.5.
16. अत: परीक्ष्य कर्त्तव्यं विशेषात् संगतं रह: ।
    अज्ञातहृदयेष्वेवं वैरीभवति सौहृदम् ।।
    Sak.V.23.
17. Manu III, 250
18. पुमान् प्रसूचते चेन कर्मणा तत् पुंसवनमीरितम्
19. पुत्रेण दुहिता समा Manu IX, 130.
20. दुहिता कृपण परम् *ibid.,* IV. 185.
21. दुहित्रा...विवादं न समाचरेत् *ibid.,* IV, 180.

22. *ibid.,* III, 55, 59
23. *ibid.,* III, 57-58
24. *ibid.,* iII, 160
25. *ibid.,* III, 114
26. Gaut. V. 25, Baudh. II. 7.19, Ap. II. 4.12
27. Manu III. 148
28. *ibid.,* III, 238
29. *ibid.,* III, 235- Manu has used the word *dauhitra* at such places to show his direct connection with the daughter. It is only on this account that he is to be so much honoured.
30. *ibid.,* IX. 97
31. *ibid.,* X, 64-65
32. On Manu X. 64
33. Manu III, 21
34. *ibid.,* III. 41
35. *ibid.,* IX. 160
36. *ibid.,* XI. 6- Manu includes the sale of the daughter among *upapatakas.*
37. *ibid.,* III, 51
38. *ibid.,* IX 98
39. *ibid.,* IX.100
40. *ibid.,* III.53
41. *ibid.,* III, 37-38
42. *ibid.,* III, 54
43. पिता रक्षति कौमारे *ibid.* IX, 3.
44. कालेडदाता पिता वाच्य: *ibid.* IX, 4.
45. कन्यानां सम्प्रदानं च *ibid.* VII, 152.
46. *ibid.,* IX, 88
47. *ibid.,* IX, 89
48. Baudha. Dh. S. IV. 11.11
49. Manu, IX. 90
50. *ibid.,* IX.91
51. *ibid.,* IX. 92
52. *ibid.,* IX. 93
53. *ibid.,* VIII. 225
54. *ibid.,* VIII. 226
55. *ibid.,* VIII. 205
56. *ibid.,* VII. 224, IX 72,73

57. *ibid.,* VIII. 365
58. *ibid.,* VIII. 364
59. *ibid.,* VIII. 365
60. *ibid.,* VIII. 367
61. *ibid.,* VIII. 368
62. *ibid.,* VIII. 369-370
63. *ibid.,* III. 164
64. *ibid.,* XI. 61
65. *ibid.,* XI. 58
66. *ibid.,* II, 27
67. Harita. XXI, 20
68. Manu, II, 66
69. *ibid.,* II, 39-40
70. *ibid.,* II, 67
71. *ibid.,* II, 33
72. *ibid.,* IX, 126
73. *ibid.,* III, 9
74. *Hindu Samskaras,* p. 135
75. Manu IX, 104
76. *ibid.,* IX, 185,217
77. *Dayabhaga* II, 5, p. 27, III, 9. p. 60
78. *Dayatattva* P.170
79. Manu IX 104
80. Manu IX, 192
81. *ibid.,* IX, 133, 139
82. *ibid.,* IX, 118
83. *ibid.,* IX, 192
84. *ibid.,* IX, 118
85. On Yajn VIII, 124
86. On Manu IX, 118
87. *Dayabhaga,* III, 36, 39
88. On Manu.IX, 118
89. Manu IX, 192
90. *ibid.,* IX, 193
91. *ibid.,* IX, 127
92. *ibid.,* IX, 133
93. *ibid.,* IX, 139
94. *ibid.,* IX, 130.

95. *ibid.*, IX, 140
96. *ibid.*, IX, 132
97. *ibid.*, IX, 134
98. *ibid.*, IX, 135
99. *ibid.*, IX, 128-129
100. *ibid.*, IX, 136
101. *ibid.*, IX, 131
102. Panini VI, 2.86
103. *Great Woman of India,* p. 31
104. *Paninisiksa.* 52
105. *Ideal and Position of Indian Woman in social life.* pp. 33- 34.
106. Manu II, 249, VI, 97
107. *ibid.*, VII, 43
108. *ibid.*, IX, 325-333
109. *ibid.*, II, 168, III, 120-130.
110. C. Chapter VI. Religious Rights of the wife.
111. Manu II, 210,217
112. *ibid.*, IX, 175
113. *Manu and Yajnavalkya,* p. 258.

Chapter 3

MARRIAGE[1]

Importance of the Grhasthasrama

Before proceeding to the question of marriage which is the starting point of the *Grhasthasrama* it is necessary to understand Manu's theory of the Asramas and among these his attitude towards the *Grahasthasrama* in particular, which concerns the married life of a man wherein the woman's role is the most important. And so in order to estimate the right position of woman in society and in man's life a thorough study of the *Asramas* is essential.

Regarding the Asramas there were three schools of thought prior to as also in the days of Manu. They are the *Vikalpa*, the *Badha* and the *Samuchchaya* schools. The supporters of the *Vikalpa* school of thought hold that after the *Brahmacharyasrama* a man has full option in his choice of the Asramas - a man may become a householder after he finishes his student-life or he may become a *parivrajaka* immediately after finishing his studies.[2] Vasistha is the prime supporter of this point of view.[3] Jabala also puts forth this view as an alternative to that of the Samuchchaya.[4] The second theory, the theory of *Badha*, is advocated in the ancient *Dharmasutras* of Gautama and Baudhayana. They hold that there is really one Asrama, the Grhasthasrama, and that all other Asramas are inferior to it.[5] Baudhayana names the four Asramas and gives the interesting information that it was the Asura Kapila who being jealous of the gods, made these distinctions which a wise man should pay no heed to.[6] Baudhayana appears to hold that there is really only one Asrama, the *Grhasthasrama*, and Kapila devised the scheme of the four Asramas to harm the gods as those who adopted the *Vanaprasthasrama* or became a *parivrajaka* could perform no *yajna* and due to that the gods lost the offerings they received from men in that proportion and consequently became less powerful. Thus according

to Baudhayana the system of the four Asramas is the outcome of the malicious move of the aforesaid demon to make the gods starve. Those who subscribe to the theory of *Badha* probably rely on such Vedic texts as these, "Indeed, *Agnihotra* is a *satra* that lasts till one dies through old age",[7] and "after bringing to the teacher wealth desired by him do not cut off the thread of progeny".[8]

Those who subscribe to the third theory, the theory of *Samuchchaya,* say that a person should resort to the *Asramas* one after the other in order and that he cannot omit any one or more of them and pass on to the next. Apastamba is the supporter of this theory. He says, "If he lives in all these four *Asramas* according to the rules of law without allowing himself to be disturbed by anything, he will obtain salvation".[9]

This theory lays great stress upon the systematic co-ordination of all the stages of life. It does not regard matrimony and begetting of children as anything impure or inferior to asceticism but, on the contrary, considers it to be superior to it. Asceticism, according to this theory, is not to be pursued exclusively and directly by an individual unless and until he has duly paid off all his social debts and discharged all his obligations.

The followers of the *Vikalpa* theory do not attach much importance to the *Grhasthasrama* whereas the followers of the *Badha* theory eulogise it to such a height that they hold that there is one and only one *Asrama* and that is the *Grhasthasrama.*

Manu supports the *Samuchchaya* theory of the Asrama and gives the highest importance to the *Grhasthasrama.*[10] He realises their social values quite well. He knows that in the interest of the society as well as the individual the *Samuchchaya* theory is the best. In his opinion each and every individual should normally pass through these four stages of life one after the other and live in them in accordance with the *sastras* if he desires to obtain salvation.[11] He holds that the real good of a man consists in the harmonious blending of all the four *Purusarthas.* As each institution affords scope for the development and gratification of one or more of these fundamental human impulses, there is no conflict among the *Asramas.* Each stage is a preparation for the next. At each stage an individual receives what is his due. So every individual should pass through these four stages in order that the purpose of his life may be fulfilled. Manu leads the individual on stage by stage and shows how by means of certain social controls exercised by each one of these, the highest type of personality may be developed and at the

same time a progressive social order may be achieved.

While dealing with the *Samuchchaya* theory of Manu one thing is to be specially noted. He is not as particular about the *Vanaprasthasrama* as he is about the *Brahmacharyasrama* and the *Grhasthasrama.* This attitude of Manu may be due to the fact that in the beginning there were only three *Asramas, Vanaprasthasrama* and the *Samnyasasrama* forming only one order. These two came to be distinguished from each other in later times.[12] The *Chhandogya Upanisad* mentions three orders of life.[13] This may be due to the fact that the *Vanaprasthasrama* and the *Samnyasasrama* were not water-tight compartments, the latter being only an extension of the former, as in both of these renunciation of worldly things is stressed upon it being severer in the former. At places Manu also has regarded the *Asramas* to be only three in number.[14]

At one place Manu appears to provide that a man may have recourse to the *Samnyasasrama* direct from the *Grhasthasrama.* But this direct transition from the *Grhasthasrama* to the *Samnyasasrama* was not possible in each and every case; it was meant for those only who on the death of their wife, did not take another wife but retired from the world. This course of action was not possible for a man whose wife was alive.

The hymus of the Rgveda clearly reveal the optimistic outlook of the people on life. The joys and pleasures of this world interest them deeply. They do not subscribe to the view that the life is mere misery which can be ended only by eradicating *vasana.* A keen appreciation of all that this life upholds is to be found in the ages of the other *Samhitas* and the *Brahmanas* also.[15] By the end of this period, however, a change was gradually coming in. The tendency to take a pessimistic view of life came to be favoured by the upper classes.[16] Still, the outlook on life as revealed in the *grhyasutras* is vigorously robust and optimistic. If any body doubts that the ancients had a distaste for the pleasures of life and had a tendency to retire from its turmoils or they lacked ambition, he should turn to the description of the Kamya ceremonies prescribed for the achievement of various ends.[17] Unfortunately, during the Upanisadic age the tendency towards renunciation began to gather strength[18] till it reached its climax during the period of Jainism and Buddhism which preached asceticism very vigorously. There were some who felt that if this mode of life were to be pursued at large the world itself might become extinct. Manu is one of them, so he puts emphasis on the *Grhasthasrama* and makes an attempt at reviving the

ancient ideals of the *Grhasthasrama* on account of its own intrinsic values. For, looking at the state of things prevalent in his age he must have realised the importance of this Asrama for the continuation and the well-being of the people in general. So quite in tune with the Vedic ideals Manu has bestowed the highest encomiums on this *Asrama.* Most probably he is the first lawgiver who is so eloquent in his high estimation of this *Asrama.* He says, "As all living creatures subsist by receiving support from the air so all Orders subsist by receiving support from the householder. Because the men of the three Orders are daily supported by the householder with sacred knowledge and food, therefore, householder's is the most excellent Order. The duties of this Order which cannot be practised by men with weak organs must be carefully observed by him who desires imperishable bliss in heaven and constant happiness in this life.[19] The student "Manu further observes, "the householder, the hermit and ascetic, these all spring from the Order of the householders. And in accordance with the precepts of the Veda and of the smrtis the housekeeper is declared to be superior to all of them; for he supports the other three. As all rivers, both great and small find a resting place in the ocean, even so men of all Orders find protection with the householders.[20]

We thus find that there is no trace of any morbid melancholy warping the mental outlook of the lawgiver. In him we do not find any distaste for the pleasures of life or a tendency towards retirement. On the other hand, he takes a very optimistic and robust view of life.

Manu clearly saw the disastrous consequences of the spread of the ascetic ideals in society. The whole social structure was on the verge of collapsing. Buddhism and Jainism encouraging the institution of monks and nuns had spread far and wide during the centuries before Manu. Men and women under the influence of asceticism deemed it their highest duty to renounce the world. They had ceased to be of any use to the society; rather they had become instrumental in bringing about its degeneration. Literary records show that corruption had become very common among these classes.[21] The *Arthasastra* of Kautilya mentions the employment of ascetics, hermits and mendicant-woment belonging to the Brahmanical as well as the non-Brahmanical orders as spies, for whom there was a separate department.[22] And worse than that, the pre-Vatsyayana works on erotics mention about the employment of Buddhist and Jain nuns as well as Brahmanical female-ascetics in playing the hateful role of go-betweens for settling amorous meetings of lovers. The low esteem in

which female ascetics in general were held in the contemporary society may be illustrated by means of the following examples. While adulterous conversation with a married woman rendered the offender liable to heavy fine, the penalty for secret conversation with a female-ascetic is only nominal.[23] Vatsyayana warns the *nagaraka's* wife against associating herself with female ascetics belonging to any of the Brahmanical, the Buddhist or the Jain orders.[24]

These statements very clearly show that there was laxity of morals among the monks and the nuns. Their intellectual as well as moral level was not high. They were persons of balked desires concealing in their hearts a yearning for the denied pleasures of sex and wealth. In such circumstances Manu had no alternative but to hold the cause of the *Grhasthasrama* which alone could nobly provide for the satisfaction of all the life-needs of a man in a natural way.

It was only in the *Grhasthasrama* that *Dharma, Artha* and *Kama* can be achieved simultaneously. By their right functioning they contribute their necessary quota for the upkeep, stability, growth and development of the human race, consistent with the personality of every individual.

Grhasthasrama appeared to Manu to be quite a natural institution. He found that in practice it was exceedingly difficult, rather impossible, for an individual of average capacities to follow the course of *Brahmacharya* and *Samnyasa* throughout his or her life. This path of life could at most be followed by one amongst thousands and could never be an ideal to be followed by the masses.

MacIver and Page say, "Only in a successful family are these three functions so united that each of them reinforces and enriches the satisfaction of others. Sex becomes not a detached phenomenon as it tends to be in extra-marital relations and usually in prostitution - but part of a larger experience of meeting common problems. And the nurture of the child takes place within the focus of the home which, as considerable evidence seems to indicate, is a more favourable environment for them than that of the state-nursery or other public or private agencies".[25]

This *Asrama* is important from the biological point of view also. Every human being has got certain biological needs which will brook no suppression or even interference. Any attempt at this would affect the physical and mental growth of the individual adversely. A social order that does not provide for the satisfaction of these natural needs of its members is doomed to failure. The life of spiritual pursuit which

comes in the last stage of life requires by way of preparation a sublimation of the desires of a man in the earlier stages of his life. The life of an ascetic given to serious meditation and contemplation is very hard and its success depends upon its harmonious development in all the earlier stages. Therefore, it is essential that an individual be given ample opportunities for the satisfaction of his desires without any prejudice to others. And this is possible in the *Grhasthasrama* only.

The social value of this *Asrama* is also very great. It is only the householders to whom the students and the ascetics turn for food and all other kinds of help. It is he who does the teaching work in the society.[26] The teachers in Manu are depicted as full-fledged householders;[27] for who else could discharge satisfactorily the responsible work of passing on the intellectual heritage to the younger generations. Thus the *Grhasthasrama* is the axis of the wheel of the social orders. If there be no householders, students as well as ascetics would not be able to discharge their duties in the proper way.

The ethical value of this *Asrama* is also in no way less important. It is only here that an individual can satisfactorily discharge his debts he owes to his forefathers, gods and the sages and can attain all the *Purusarthas* simultaneously in their proper form. There is a spirit of accommodation and compromise in this stage of life.

From the economic point of view also this *Asrama* is of the highest importance. It is the householder alone who produces all kinds of wealth. It is he who by his own personal efforts provides for the physical needs of all the living beings. If the students and the renunciates are not properly provided for by a householder they are bound to fail in their pursuits.

The educative function of this *Asrama* is also very great. All the altruistic attitudes like co-operation, self-sacrifice, service to humanity and universal brotherhood are formed and nursed in the peaceful and congenial atmosphere of the family. Brown observes, "The child is surrounded by social definitions in the family. Moral attitudes abound for every situation. Ideas of right and wrong are repeatedly impressed. The child finds ready- made ways of doing things presented to him almost before the occasion arises for their use. Sentiments built up around certain objects and practices become cogent factors in the lives of the individuals. Ritualistic performance on special occasions and family-traditions that have become sacred, are closely related to sentimental attitudes".[28]

The last but not the least important function of this Asrama is to

perpetuate the race. It is only by living in this Asrama that the work of procreation is done and the children thus born continue the tradition and culture of the race.

Maclver and Page observe, "Of all the organisations, large or small, which the society unfolds, none transcends the family in the intensity of its sociological significance. It influences the whole society in innumerable ways and its changes reverberate through the whole social structure. It is capable of endless variations and yet reveals a remarkable continuity and persistence through change".[29]

Importance of Marriage

Marriage is the most important of all the *samskaras*. From the very early times in all the important civilisations of the world marriage has been regarded as necessary and desirable for all. The Vedic age also shares the same view. In the Rgveda the 85th hymn is redolent of the highest ideals of marriage and conjugal bliss and several verses of this hymn are recited even now during the marriage-rites. The *Brahmanas* and the *Aranvakas* also proclaim the great importance of marriage. The institution of marriage held its fields undisturbed till the beginning of the Upanisadic age when the people began to feel inclined towards *sreyas* (spiritual benefit) as against *preyas* (worldly benefit) and started thinking more of the other world than of this. Consequently, the importance of the worldly objects began to be impaired. People developed a pessimistic outlook towards the life and the world and instead of enjoying life they started hating it. This tendency grew stronger with the spread of Jainism and Buddhism which preached renunciation of the world to be the most ideal course of life. These religions laid great stress on the renunciation of the world by women equally with men and consequently, the institution of marriage received a set-back. But the admission of unmarried women to religious institutions proved to be definitely harmful as it spread corruption among the people and also lowered down the spiritual tone of the monasteries. Naturally this provoked a body of men who denounced the system of monastic life as strongly as they could. Manu also belongs to this class of protestants.

We have seen how Manu has eulogised the *Grhasthasrama.*[30] He also dwells at length upon the indispensability of marriage and regards it as an individual, social and religious necessity.[31] He calls it a *sarira samskara* a refining process, through which every man and woman must pass at the proper age and time.[32]

Forms of Marriage

We find that eight types of marriage were prevalent in different periods prior to as also during the time of Manu. He names and describes all these eight forms in detail. They are *brahma, daiva, prajapatya, arsa, gandharva, raksasa and paisacha.*[33]

A superficial view of the statements of Manu may lead one to think that he is prescribing so many forms of marriage to be chosen by the people at will. But that is not true as will he seen from the fact that he denounces the last four forms in very strong terms. He recognises the legality of marriage in these forms, only with a view to saving certain categories of people from degenerating into criminals and habitual offenders. The fact is that taking human weaknesses into account he has legalised the deviations of human beings from the path of virtue under certain conditions so that they might get the chance of becoming better men and women later on, even though they might have done wrongful acts in a fit of excitement. He always has his eye on the truth of the adage 'It is never too late to mend'.

BRAHMA The gift of a daughter after decking her and honouring her, to a man learned in the Vedas and of good conduct, whom the father himself invites, is called the Brahma form of marriage.[34] The essence of this form is that in this the girl is given without receiving anything from the bridegroom who has been invited and honoured by the girl's father.

DAIVA Regarding this form of marriage Manu says, "The gift of the daughter, who has been decked with ornaments, to a priest who duly officiates at a sacrifice, during the course of its performance, is called the Daiva rite".[35]

ARSA When the father gives away his daughter according to the rule, after receiving from the bridegroom, for the fulfillment of the sacred duties, a cow and a bull or two pairs, that is named the Arsa rite.[36] Here the gift of a pair of cows is accepted with the idea that it is one way of effecting a marriage as laid down in the *sastras* and not with the idea of receiving the price for the girl as there is no possibility of any higher or lower demand being made, as there could be, if it were a case of price.

PRAJAPATYA The gift of a daughter after the father has addressed the couple with the text, "May both of you perform your duties together' and has shown honour to the bridegroom, is called the *Prajapataya* form.[37] Here the duty has been mentioned by way of illustration, the undertaking refers to property and pleasure also. The

expression 'May duty be performed by you both together' is to be pronounced at the time that the girl is being given away to the person upon whom the condition has been imposed that this girl is to be given to you to fulfill your duty, property and pleasure along with her and who has accepted the condition at the time of marriage. The bridegroom is also made to announce in his own words that he accepts the condition imposed upon him and that he will not renounce the *Grhasthasrama* for practicing religious austerities. The proviso gave protection to the married girl at least for the whole of the *Grhasthasrama,* which extended over a period of twenty-five years during which time the children born might well have come of age and thus there might not be any difficulty for the bride for the rest of her life. This idea might have occured to Manu when he saw the people's tendency to leave their homes and go away to the jungle.

ASURA When the bridegroom receives a maiden after having given, at his own initiative, as much wealth as he can afford, to the kinsmen and to the bride, that is called the Asura form.[38] In the Arsa form the scriptures restrict the gift to a cow and a bull only, while in the present case there is no such restriction and the with of the giver shall depend upon the beauty, the character and such other qualities of the bride. The relations on whom the responsibility of giving the girl in marriage is of secondary importance, are not to be blamed for doing so, as they might adopt such a course being compelled by circumstances. But if the parents took money they were certainly actuated by greed. And who can deny that marriage performed under the influence of greed would be anything but noble.

GANDHARVA The voluntary union of a maiden and her lover is known as the *Gandharva* form. It springs from desire and sexual intercourse is its only purpose.[39]

RAKSASA The forcible abduction of a maiden from her home while she cries out and weeps, after her kinsmen have been slain or wounded and their houses broken open, is called *Raksasa* form.[40] If knowing the strength of the abductor her guardians do not take retaliatory steps in the fear of the strength, then also it is a Raksasa form of marriage. Unwillingness of the girl and her forcible abduction are the two essential features of this form.

PAISACHA When the man approaches a girl by stealth while she is asleep or intoxicated or unconscious, it is the *Paisacha* form, the wickedest and the basest of all the forms of marriage.[41] The issue of such a marriage does not become the rightful child.

Regarding the *gandharva,* the *raksasa* and the *paisacha* forms of marriage there arises a very vital question as to whether or not the prescribed offerings and wedding ceremonies are to be performed in the case of these three. Medhatithi, a commentator of Manu, recommends the performance of the wedding ceremony without *mantras* in the case of the *Gandharva* form of marriage. But as regards the *Raksasa* and the *Paisacha* forms he is against the performance of any wedding ceremony at all, on the ground that the sacred texts relating to the marriage are restricted to maidens only and in common parlance the term maiden denotes the girl who has not had intercourse with a man. If a girl happens to have had sexual intercourse with a man, she ceases to be regarded as a maiden. It is true that the words 'virgin' and 'maiden' have been regarded as referring to a female of tender age, but in connection with rules relating to marriage, they are always used in the sense of one who has had no intercourse with any man. It is for this reason that when a man is found to be seeking the hand of a girl who maintains the appearance of a virgin and does not openly go in for sexual intercourse, he is warned by people with words like these 'she is no longer a virgin, her virginhood has been destroyed'. In marrying such girls there would be a serious deficiency in the sacramental rites themselves. The rite of conception has to be done with such sacred texts 'May Visnu generate upon your generative organ' and there can be no generating of what has already been generated by another man; so that the use of the sacred text in this case would be meaningless. Nor can any such text be used when an unmarried girl would be approached in the Paisacha form; as it has been definitely declared that it is to be used only in the case of a married girl. Nor would it be right to hold that the clause regarding the generating refers to the case of marriages other than the Paisacha one, for, the use of the text has been prescribed without any restriction at all".[42]

As regards the statement of Manu 'When the sacrement is performed for a pregnant girl' Medhatithi observes, "This refers to cases where the person performing the sacramental rites is not the same as has had previous intercourse with her; so this would not be a case of Paisacha marriage at all as in this latter case the girl is given in marriage to the same person who has had intercourse with her".[43]

On a closer examination of the views of Manu one would surely see that the former had approved of even the low forms of marriage only to give a legal status to the offspring born of such a union and also out of a consideration for the well-being of the girl that had been

wronged under unhappy circumstances. Certainly he never favoured them but denounced them in clear words by saying that they were blamable marriages and would produce only blamable children. But the demands of the times in which he lived were such that he could not discard them altogether and, therefore, had to give them an unwilling sanction.

As regards the suitability of these eight forms of marriage for various varnas, Manu quotes several views on the point as were prevalent in his time and has also given his own. But owing to his peculiar mode of discussion the scholars have taken a wrong view of things and have understood that the views quoted by Manu were his own. Proceeding on this supposition they have left Manu's actual views out of consideration and discussed only the views of others under the impression that they were Manu's. The result has been that they have arrived at many anomalous conclusions which lead them nowhere.

First we shall look into the different views quoted by Manu. One view is that the first six are allowed to the *brahmanas,* the last four to the *ksatriyas* and the *gandharva,* the *asura* and the *paisacha* to the *vaisyas* and the *sudras.*[44] Another view is that the first four are proper forms for the *brahmanas Raksasa* alone for the *ksatriyas* and the *asura*for the *vaisyas* and the *sudras.*[45] A third view is that, of the five, three have been declared to be lawful (for all) and the remaining two unlawful; the *Paisacha* and the *Asura* forms should never be adopted.[46] Manu mentions yet another view that the *gandharva* and the *raksasa* are proper for a *ksatriya* or a mixture of these two.[47]

But so far as Manu is concerned, he has no regard for caste when he is describing the superior and the inferior forms of marriage. His opinion regarding the superior or the inferior form of marriage is based on a consideration of the respective merits of the different types of marriage regardless of the caste of the people. To him a superior marriage is superior for all and an inferior one, inferior for everybody. This is quite evident when he says, "From the four marriages successively which begin from the *Brahma* form, spring sons radiant with knowledge of the *Vedas* and honoured by the *sistas*. Endowed with the qualities of beauty and goodness, possessing wealth and fame, obtaining as many enjoyments as they desire and being most righteous, they live a hundred years".[48] As regards the last four, he says, "But from the remaining four blamable marriages spring sons who are cruel and speakers of untruth, who hate the Vedas and the sacred law".[49] He then concludes thus, "In the blamable marriages, blamable children are

born to men, in blameless ones, blameless offspring; one should, therefore, avoid the blamable forms of marriage".[50] In course of these observations Manu nowhere makes any reference to the caste of the man concerned. May a persue be of any caste, if he has taken recourse to blamable marriages, blamable offspring will be born and vice versa. Thus we find that Manu has absolutely no consideration of caste while describing the higher and the lower forms of marriage.

Again, Manu does not treat even all the higher forms of marriages on equal footing. He puts them in a definite order of gradation by mentioning the number of generations which are purified by the birth of sons from these forms of marriage. He says, "The son of a wife wedded according to the *Brahma* rite, if he performs meritorious acts, liberates from sin ten ancestors, ten descendants and himself as the twentyfirst".[51] The ancestor's freedom from sin is actually brought about by the performance of *sraddha* and other rite and in his family ten lines of descendants are born sinless". Here the word *purva* may be taken as denoting the girl's previous relations, her father, mother, brother etc. and the word *para* denoting her later relations her husband, her father-in-law etc. Ten generations of the mother's family and ten generations of the father's family are sanctified by a son of the parents married in the *Brahma* form of marriage. Thus this form of marriage has got a sanctifying effect on both the families.

The son born of a wife wedded according to the *Daiva* rite likewise, saves seven ancestors and seven descendants, the son of a wife married by the *Arsa* rite, three and the son of a wife married by the *Prajapatya* form, six.[52]

Thus in the order of preference *Brahma* form stands first *Daiva* the second, *Prajapatya* the third and *Arsa* the last. He permits the *Arsa* only as a last resort and that too reluctantly, as in the order of preference he has relegated it to the fourth position, although traditionally it was the third. He gives a very reasonable justification for this change in the order of preference. He states, "Some call the cow and the bull given at an *Arsa* wedding 'a gratuity' but that is wrong, since the acceptance of a fee, be it small or large, is a sale of the daughter".[53] Thus in Manu's opinion the giving of the pair of cows involved in this form is nothing short of bride-price, the acceptance of which is severely condemned. *Arsa* according to him is nothing but the *Asura* form in disguise.

This order of preference appears to be due to the following facts. The *Brahma* is the best because in it the girl is given away without

receiving anything from the bridegroom who is invited and honoured by the bride's father. The *Daiva* is next to the *Brahma* one word as in it there is some gain to the bride's father in the shape of the best services of the bridegroom in conducting the sacrificial rites. Even though the daughter is not given in consideration of any sacrificial services, yet when she is given to him while he is engaged in a certain act, it does give rise to the inference that she has been given as a reward for those services. And it is in view of this fact that the *Daiva* form has been regarded as inferior to the *Brahma* form in which there is not the slightest suspicion of any kind of return.

The *Prajapatya* is still inferior in that the father makes a special stipulation with the bridegroom while in the *Brahma* there is no such stipulation. This form of marriage is inferior to the preceding ones only by reason of this condition being imposed, as it shows that there is a desire on the part of the giver for some sort of return from the recepient.

Arsa is the lowest because in it there is in the mind of the bride's father some idea of making a positive gain. Though what is received cannot be regarded as the price, as there is no possibility of any higher or lower demand being made as there would be, if it were a question of price. Yet some consideration is accepted in exchange for the price of the girl.

According to G.D.Banerjee the cattle here constitute the price for the bride and this form is in reality the same form as the Asura, and is less objectionable only because the sale of the bride is apparently less noticeable.[54]

But in all these forms the gift of the daughter is made by the father or some other guardian of the girl. The sanctity of the gift is not violated in any of these forms. In these cases the marriage is suitably settled and hence they are considered to be good. In the unapproved forms, on the other hand, there is no proper gift of the daughter and as such they appear to serve no spiritual purpose. Three of them are mere means of the satisfaction of carnal appetite of either one or of both the partners. The *Asura* is nothing but the sale of the daughter for money.

Gandharva is condemned because it interferes with the rights and the sacred duties of the father and is motivated by the desire for sexual intercourse and thus tends to lower down the moral tone of the society. In the *gandharva,* there is no gift by the father; on the contrary, his right is set at naught by the girl for the time being. Marriage is a sacrament according to Manu and its principal purposes are the acquisition of

merit and of progeny. But in the *Gandharva* form the principal object is gratification of carnal desires; so it is held inferior to the first four forms and is disapproved on this account. It is named after the *gandharvas* who are known to be libidinous.

Even the modern sociologists have not looked upon this type of marriage with favour. Panunzio has very clearly pointed out the disadvantages of spontaneous choice of the mate by the parties themselves. He observes, "Spontaneous mate-choosing seems disadvantageous in some respects. It is first of all, scarcely choosing at all. Youthful individuals tend to be drawn to each other by mere accidental propinquity; they do not primarily think but feel; they do not or cannot look ahead; they fail to consider whether they are physically or emotionally fit for one another; often they either do not perceive or ignore their differences in race and culture, in personal habits, in aptitudes, in educational and religious training and in political background. Consequently, their choice, in so far as they do choose, is largely non-deliberative. In reality they do not choose at all, but merely fall in love and often the fall mars their whole lives. In addition, spontaneous mate-choosing mainly being emotional tends to build the romantic figment of perfection which often adds to the likelihood of failure in marriage. Romantic marriages in which no account is taken of biological and cultural differences and in which practically no preparation has been made for the slow and never-ending process of adjustment, seem to have a greater probability of failure.

"Spontaneous mate-choosing does not provide a sufficient degree of control of the sex-impulse or of guidance in choice. This form of choosing may partly account for the disorganisation in marriage as is evident from the number of divorces prevailing in parts of western countries particularly in democratic nations".[55]

Manu condemns *Asura* because it involves the sale of the daughter which is the most heinous act in his eyes. He disapproves of the *Raksasa* form because in this kind of union there is no regard for the tender feelings and sentiments of the girl or for the father's rights in the matter of selecting a suitable bridegroom for his daughter. And he condemns the *Paisacha* on the ground that it involves inhuman brutality.

There appears to have been a chronological sequence among these forms of marriage, though in the time of the great law-giver all these forms were in vogue in the different groups of the society. The worse the form, the more ancient it seems likely to have been. Better forms

came on into being with the advance of civilisation and culture. The Paisacha and the Raksasa being at the lowest rung of the ladder of time appear to be the most ancient ones. These probably had been coming on from the earliest periods of human existence when man led the life of savages and knew little of any social and ethical laws. They lived like beasts and like them they too copulated with any and every member of the opposite sex without any restriction. The sense of blood-relationship could not have developed among them. In such circumstances men might not think that there was anything wrong in enjoying even those women must have felt jealous of those who had them. Thus there might have grown up two classes of 'haves' and 'have-nots'. But the 'have-nots' also had their biological needs for copulation. Among them those who were powerful and strong and courageous might have had recourse to violence and forcibly abducted the maiden from her home inspite of her cries and tears when her kinsmen were slain and their houses broken open. In those days might alone was right. But those 'have-nots' who were not strong enough and had no resources for fighting against the 'haves' and yet suffered from the pinch of strong sexual passion must have used cowardly tactics for getting a woman. Such a union has been called the *Paisacha* form of marriage. They seduced a girl by stealth while she was sleeping, intoxicated or disordered in intellect.

But with the onward progress of civilisation people began to think that these methods were not commendable in any sense. It was not always desirable to decide everything by the force of arms. Moreover, such acts of violence might have disturbed peace and security of the society, the strong always troubling the weak. So the people might have met together and settled by mutual agreement that if one wanted to have a thing for himself, he should pay its price to the owner and then have it and not take it away by force or fraud. This principle might have been decided that if a man wanted to marry a particular girl he should pay the price of the girl to the person who was her custodian or guardian and then have her. This might have given rise to what is known as the *Asura* form of marriage.

But as days went on people decided that method also was not satisfactory. In this the girl was, in a way, given away to the highest bidder. In this form there was no respect for the sentiments of the girl or any consideration for her future happiness. She was treated as a mere chattel, and money was the primary consideration which is certainly very unethical.

Later on they might have decided that a girl should be allowed to be with that man whom she loved and was loved in return. This suited the taste of the partners. Here there was no consideration for any kind of compensation for the girl. Only the happiness of the girl was the main consideration. It was thought that she would be the happiest in the company of a loving husband. Thus in this form, the father of the girl, without caring for his own wishes and interests allowed his daughter to go with a person who reciprocated her sentiments.

But though the sentiments of the girl were respected in this form there were other difficulties. For want of mature judgement in the younger couple their courtship did not always result in a really happy choice of their mates. The period of courtship was sure to be full of excitement and thrill and so there was little room for quite reflection and balanced observation. During the period of courtship when constant company of the pair was not possible, only the outward good points in either might catch their attention and their defects and shortcomings might go unnoticed. In fact the emotional situation involved in courtship left little room for judicious exercise of wisdom and reason in making a correct appraisal of each other's merits and demerits. Moreover, the fear of the possibility of incestuous relationship in such cases might also have made this form not very popular.

In order to avoid both these difficulties people thought that there was a great need of parental guidance in the choice of the mate. And so they decided that the father should have the right of giving his daughter in marriage to a person of his own choice. By this time, probably, they had given up the nomadic ways of life and had settled down in villages and towns and led the life of the agriculturists. They realised that the daughter was not a mere commodity to be sold to the highest bidder; but at the same time they could not understand that the girl was worth nothing and could be given away without any consideration. She had some economic value at least, as she helped her father in his household work and looked after his cattle. So in order to impress upon the bridegroom that the girl was something valuable, a certain amount was required of him to be given to the bride's father.

But even this much of consideration for the daughter did not favourably appeal to the people when their ethical sense developed further. They considered it immoral to accept any consideration for their daughter, howsoever small it might be. It smached of bride-price. So they tried to evolve a better mode of marriage. One thing is very

remarkable, and it is this that the people were very considerate and careful about the well-being of their beloved daughters. On account of this love for them, they sometimes imposed a condition upon the man, who wanted to marry, not to be negligent towards her comforts and happiness. It might have happened in some cases that a man left his wife behind and took to the life of a recluse or even while living as a householder did not consult her in matters of daily life. Thus to safeguard the interests of the daughter, the form of marriage called Prajapatya was evolved. This form does not appear to have been known to the people of the Rgvedic age. It probably came into being as a reaction against the growing ascetic tendency among the people.

The *Daiva* form of marriage appears to have been introduced during the Vedic period. Vedic sacrifices often lasted for several weeks. The sacrificer invited a large number of priests to perform various duties. During his close and prolonged association, the father would often be very favourably impressed with the culture, character and scholarship of someone amongst them and would decide to solve the marriage-problem of his grown- up daughter by giving her away to him. This form could be popular among the *brahmanas* only and went out of use with the disappearance of the Vedic sacrifices.

But to those who had advanced ethical views, this form also might not have appealed much. They thought that here also some consideration in the form of the good services at the sacrifice was made available to the father of the bride. So they condemned this form also and decided in favour of that form where even this much of consideration was not acceptable. This was the *Brahma* form. In it the father made a judicions selection of the bridegroom, invited him to his house and offered him his daughter according to proper religious rites, along with such presents as he could afford to give on account of his natural love and affection for her.

According to Justice West these different forms of marriage are to be traced historically to the customs of different tribes which afterwards coalesced to form a single community.[56]

Qualifications of the Partners

Manu attaches great importance to the family of the partners and says that one who desires his family to be raised to excellence and eminence should always enter into marriage-alliance with the best and avoid that with the low.[57] He further explains the circumstances under which good families are reduced to a bad state.[58]

It may well be imagined that wealth, beauty, health, intelligence and good family must have been the main considerations for selecting the bride as well as the bridegroom. Similarly derormed, sickly, idiotic, impotent and low-born persons must have been regarded as undesirable mates.

As regards the qualifications of the bridegroom in particular Manu says that he must have led a celebate life and returned from the place of his teacher after duly finishing his studies and taking the final bath with the teacher's permission.[59] Thus he requires in the bridegroom the qualities of belonging to a good family and having education and high moral character. Unlike the modern practice of judging the suitability of the bridegroom, he does not attach much importance to his economic status.

Rules for the selection of the bride are far more elaborate than those for selecting a bridegroom. First he lays down in detail what girls are to be married and what are not to be married. Regarding the girls who are marriageable he says, "One should marry a girl who is free from bodily defects, who has an agreeable name, the graceful gait of a swan or of an elephant a moderate quantity of hair on the body and on the head small teeth and soft limbs".[60] At another place he says that she should be endowed with good signs.[61] Here the term 'signs' stands for the colour of complexion, lines on the body, moles and such other marks as are indicative of unwidowed life, offspring. Wealth and so forth. Undoubtedly, these qualities are to be present in the girl to be married. But Narayan and Raghava hold that the absence of certain defects is itself an auspicious sign. All these qualifications are generally to be found in those girls only who are good-natured and beautiful to look at, and there can be no two opinions about the fact that only such girls are the most desirable ones; for, they alone can make the life of their husband happy and cheerful.

Though marriage was considered to be an indispensable ceremony for every woman, girls having certain characteristics were considered disqualified for it. First of all Manu describes certain families from which girls are not to be accepted in marriage. He says, "In connecting himself with a wife let him carefully avoid the ten following families, be they ever so great or rich in kine, horses, sheep, grain or other property. One which neglects the sacred rites, one in which no male children are born, in which the Veda is not studied, one the members of which have thick hair on the body, those that are subject to hemorrhoids, phthisis, weakness of digestion, epilepsy or white or black leprosy".[62] All the

disqualifications enumerated in connection with the family of the girl are such as deserved to be taken into account at the time of selecting the girl for marriage. These are based on the principle of ensuring good health to the pair and possibilities of begetting healthy children. In this the well-being of the society also has been kept in view. Certain diseases spread through contagion and might be even hereditary, so the girls going to other families might carry the germs of these diseases from their parent's family to those of their husband's and thereby effect them adversely. In this way there might be a danger of propagating diseases from family to family.

Many out of these have to be avoided owing, it is evident, to biological considerations. These rules suggest that Manu is impressed with the influence of heredity on man. A maiden from a family in which there is a hereditary disease of the type mentioned above, is quite likely to be a victim to that disease herself and she is sure to pass it on to her progeny. As a matter of fact, bipeds inherit the peculiarities of their mother's families just mentioned would be infectious". Medical authorities also support this.

After dealing with the prohibitions with regard to the family of the bride, Manu insists on a certain amount of physical fitness of the girl herself. He says, "Let him not marry a maiden with reddish hair, nor one who has a redundant member, nor one who is sickly nor one either with no hair or too much hair nor one who is garrulous or has red eyes".[63] The personal disqualification of the girl mentioned by Manu are such as take away her charms to some extent and hence on account of these defects she might not be quite lovable. Besides, these things might be indicative of some defects in her inner nature also. For example, a *kapila* girl has very little chance of getting offspring. Her *kapila varna* is also indicative of some disease in her. A garrulous woman is always unwelcome everywhere. Too much talk by one and one person alone is not liked by the hearers. Moreover, such a woman is generally not expected to be very thoughtful and considerate. She might also give out family-secrets and attract undesirable persons through her talks. Therefore, garrulity in a girl has been regarded as a disqualification.

Manu is very particular about the name of the girl. He recommends that certain girls are to be avoided on account of the bad types of their names. He says, "Let not one marry a girl named after a constellation, a tree or a river; nor one bearing the name of a low-caste or of a mountain; nor one named after a bird, a snake or a slave, nor

one whose name inspires terror".[64] Examples of such defective names may be *Ardra, Amalaki, Ganga, Sabari, Vindhya, Suki, Vyali, Dasi and Dakini*.

Manu further requires that the girl chosen for marriage must not be brotherless. He observes, "A prudent man should not marry a maiden who is brotherless and whose father is not known, through fear of her having the characteristics of an appointed daughter".[65] At the first sight it appears to be very cruel to discard a helpless orphan and a brotherless girl and shut against her the door of a happy married life. But going deeper into the matter one will find that Manu is not wholly wrong in putting this restriction on the marriage of such girls. It has been explained by some that such a girl might have had a comparatively free life and, therefore, there was every probability of her having gone astray in the company of persons who might not be well-expected to be very sympathetic towards her.[66] But this does not appear to be a very charitable view of the thing. What really mattered much in those days was the help of the male persons on one's side. The larger the number of male persons in a family the more stable was its position. And a person marrying a fatherless and brotherless girl could not expect to get much help from his wife's family. Therefore, such a girl was not considered very desirable to be chosen as one's mate.

These are the qualifications of an ideal bride. But it does not mean that the girls devoid of these virtues were disqualified for marriage altogether. They could be married no doubt, but their marriage would not be of an ideal type. These defects were not to be taken into account very seriously.

Manu lays down certain rules of endogamy and exogamy also. The rule of endogamy is that one should marry a girl of one's own *varna*. And within the *varna* the rule of exogamy is to be observed. Manu says, "A damsel who is neither a sapinda on the mother's side nor sagotra on the father's side is recommended to twice-born men for wedlock and conjugal union".[67] Here Manu takes into view both the aspects of exogamy, the sagotra exogamy and the sapinda exogamy.

The rule of sagotra exogamy as given in the Manusmrti is rather loose and no penalty is provided for breaking it. So it appears to be only recommendatory and not mandatory. This rule, as propounded by Manu seems to be a social law that was yet in formation. Generally speaking, the views of the sutra-writers also on the question of sagotra marriages are rather lenient. It is only after the beginning of the Christian era that sagotra exogamy becomes more rigid and its

violation begins to be treated as a sin of the same category as that of the violation of one's guru's bed.

As regards the sapinda exogamy, it is difficult to say as to how many cognatic generations are to be avoided. Manu defines sapindya at two places in two different ways. At one place he says that it extends to seven generations;[68] while at the other he defines it in such a way that it covers only three.[69] In all probability he prohibits marriages up to the third generations and does not seem to object to its being performed in the fourth generation. But the marriage in the third generation he condemns in very strong terms. He says, "For approaching the daughter of the father's sister, the daughter of the mother's sister, or the daughter of the mother's full brother one should perform a Lunar Penance. A sensible person should not take any of these three girls as his wife; because they being relatives, are not to be approached, and if anybody marries them, he becomes an outcaste.[70] All the three girls mentioned in the verses belong to the third generation from the common ancestor. As Manu declares that persons marrying within these limits become out-castes it can reasonably be inferred that Manu strongly resents marriages between persons belonging to the third cognatic generations. In all probability Manu was the first law-giver to prohibit authoritatively marriages in the third generation, though he did not regard it as constituting an inexpiable sin.

In Manu's times sapinda exogamy does not appear to have been observed beyond the three generations as he does not object to marriages in the fourth generation or onwards. For, instead of condemning sapinda marriages in general terms which would have meant prohibition of marriage in the fourth generation also or even beyond it, he specifically condemns all possible sapinda connections up to the third generation only.

On the whole these exogamic taboos are designed for restricting free marital relationship. Their psychological origin lies in the horror of incest and the consequent incest-taboos which aim at preventing sex-relations between parents and offsprings and between brothers and sisters. Further, the fear of the possible harmful effects of inbreeding, if such marriages are freely allowed, seems to have a scientific justification based on eugenic considerations. The union of man and woman having close blood-relationship is a union of similar hereditary traits, and if the ancestry of both is good, their offspring will receive, so to speak, a double dose of the good traits of their ancestors. On the other hand, if the stock of each carries some undesirable traits

from their ancestors, the offspring is likely to suffer doubly. But usually it is difficult to trace the historical details of each family far back and it often happens that some undesirable traits that were latent and, therefore, unknown make themselves manifest because of the consanguineous marriages.[71] And such risks are too great to be taken. It is in view of such difficulties that it was thought proper to avoid closer genetic relationship.

There may be yet another reason for formulating the rules of exogamy. If members of small groups in a large society choose their mates from within their own small group, the result is the segregation of each small group into a separate class. Such segregation is surely a cause of weakness to the larger social unit of which these group are parts. It is clear that exogamy checks this tendency to segregation and that is its main purpose. The greatest disunion in a society takes place through the formation of segregated groups. And the endogamy can be explained as having resulted from the tendency of social groups to become segregated.

With the passage of time, the rules regarding the choice of suitable and proper brides became so numerous and cumber-some that those who held orthodox views about it, found it very difficult to effect a marriage. And those who were not so very orthodox might have followed these rules more in their breach than in their observance. The commentators who flourished in the middle ages were confronted with this problem. Therefore, to maintain balance and order in the society they tried to carve out a middle course which could solve the problem and at the same time did not go against the spirit of the ancient sacred laws.

Manu's injunctions with regard to the marriage have appealed to Ouspensky very much. He says, "The laws of Manu relating to the marriage are full of significance. In his teaching concerning the marriage, Manu undoubtedly speaks of what happens or may happen as a result of wrong unions of people of different castes, that is, people who are different in their inner nature".[72]

Marriageable Age

Girls were married at a fairly advanced age in the Vedic period. The marriage-hymn shows that the bride was fully mature and quite grown up at the time of marriage.[73] This continued to be so up to the fifth century B.C. The *Grhyasutras* composed at about this time lay down that the consummation of marriage should take place on the

fourth day after it.[74] They further prescribe that the married couple should be celebrate for at least three nights after the marriage, if not for a longer period.[75] In some of the *Grhyasutras* a slight purificatory ceremony is prescribed if the bride has menstruation during the course of the marriage ceremony.[76] From these facts it is quite obvious that the pairs used to be of mature age at the time of their marriage.

In the *Ramayana* it is stated that the marriage of Rama and his brothers was consummated immediately after the return of the marriage-party to *Ayodhya.*[77] Similarly while narrating the story of her marriage to *Anasuya, Sita* describes to her the anxiety of her father when she had attained an age fit for being united to a husband.[78] In the Buddhist literature brides are often described as eagerly pining for being united with their husbands.[79] In one place we find a maiden named *Patachara* eloping with her lover because her parents did not sanction her desired marriage.[80] These references clearly show that in the period of the Epics and the Buddhist literature also brides, at least in the cultured families, used to be almost sixteen at the time of their marriage. The marriages of *Dusyanta* and *Sakuntala, Savitri* and *Satyabhama, Subhadra* and *Arjuna, Rukmini* and *Krsna, Nala* and *Damayanti,* all lead to the same conclusion.

Marriage at a lower age began to be advocated from about the fourth century B.C. The writers of the *Dharmasutras* began to advise that the marriage of girls should not be delayed till long after puberty.[81] Still they were in favour of post- puberal marriages in normal circumstances. Kautilya also concurs with the Dharmasutra-writers.[82] Vatsyayana also does not appear to be in favour of child-marriages as he refers to the bride as *praptayauvana* and *vigadhayauvana.*[83]

Manu also contemplates marriages taking place after puberty. This is quite clear from his statement, "A man of thirty may marry a girl of twelve or a man of twentyfour, who is in a hurry on account of the non-performance of religious duties, may marry a girl of eight".[84] Thus the normal age for the marriage of girls according to Manu is twelve, though in special cases he permits their marriage at the age of eight also. He allows the marriage of a girl who has not come of age, only in very special cases.

The important consideration behind the rules relating to marriageable age is, of course, puberty which according to modern scientists also ranges between twelve and sixteen.[85] It must also be borne in mind that the permissible age according to law is not the actual age at which every marriage takes place. The latter is usually higher

than the former. Thus we see that Manu is in favour of the post-puberal marriage of girls, although he does not approve of making delay in getting a girl married when she has actually come of age.

It would not be out of place here if we look into the views of some modern writers on this point. They too do not seem to be in favour of delayed and late marriages. Hamilton and Mc-Gowan observe, "Early sexual experience is valuable to the mental health and the marital normality and happiness of women".[86] In the words of Williams, "The case of early marriage, from the psychological point of view, lies in the fact that, if married early, when the nature of each is still plastic, there is a greater possibility of congeniality than later when the characteristic attitudes have become fixed. On the other hand, if marriage is delayed until the character is formed, then both the man and the woman are more sure of what their natures are and of the kind of person with whom they will be congenial".[87] Emphasising the good points of early marriage Paul Popenoe observes, "A younger woman has a wider choice of men and is, therefore, more likely to secure a suitable mate, making it easier for younger couple to adjust themselves to one another in the married state. Judges and divorce-lawyers have noted less frequency of divorce in early marriages than in the late ones".[88] In view of this he suggests the following broad formula for the marriage, "People should marry after they are physically mature, after they are emotionally mature but before they are intellectually mature".[89] All these specialists on the subject seem to be generally agreed upon the desirability of comparatively early not too early- marriages. Such marriages are advantageous in their view from the individual, bio-psychological as well as from the social point of view.

Completion of Marriage

Manu holds that the marriage is complete after the couple have taken the seventh step going round the marital fire which is supposed to stand witness to the pious act. He says, "The Vedic mantras recited in the marriage-rites are a sure indication of wifehood; but their completion should be understood by the wise as occurring on taking the seventh step."[90] But at another place we find that Manu regards even a betrothed girl a widow if the bridegroom- elect dies before the actual marriage. At best he allows such a woman to be united with her younger brother-in- law by way of *Niyoga*.[91]

These two statements of Manu when read together look to be inconsistent. He also has not suggested any reconciliation. The

underlying idea, however, seems to be, that although the formalities are complete after taking the seventh step, the marriage stands good from the very moment of the betrothal itself.

Further, Manu mentions certain contingencies when the marriage, though performed, may be treated as cancelled.[92]

But one thing is to be noted. He does not tell us up to what time this repudiation is possible. He only says 'even after having accepted the maiden in due form'. At this place Medhatithi comes to our help. He says that when by the bride there can be no revoking either on the part of the bride's father or on that of the bride-groom; so even though she be insane, she has to be taken as a wife and cannot be abandoned. Even in cases where girls are given in return for prices paid, the revocation is possible only until the seventh step has been taken. Once the seventh step has been taken the marriage cannot be rescinded. In the case when both the bride and the bride-groom are possessed of the requisite qualifications, there can be no rescission of betrothal even before the marriage has been performed, the girl happens to be one who has already had intercourse she may be abandoned even after marriage, since marriage is enjoined to be done with a maiden. The marriage stands on the same footing as using a thing and just as the cloth that has been used and worn out cannot be returned to the seller even within ten days, so the maiden also who has been married cannot be abandoned.[93]

From the observations of Medhatithi we can draw three inferences: First, when there is no defect in either of the parties concerned, the marriage stands good even after the betrothal. Second, when some defects are to be found, the marriage can be cancelled up to the time the seventh step has not been taken. Third, when the bride is found to have had intercourse during her maidenhood, she can be abandoned even after the seventh step has been taken, the reason being that marriage is prescribed with a maiden only.

Intercaste Marriage

Caste did not raise any insurmountable barrier in the way of marriage in the Vedic period. But when we turn to the *Dharmasutras* and the *Grhyasutras* we find that by their time a strong reaction against the intercaste marriage had already set in. Apastamba requires that one should marry a girl of the same *varna* who had not been given before to another and the marriage with whom was in accordance with the *sastras* and says that by contravening these rules sin is incurred.[94]

He is entirely silent about the offspring obtained through anuloma and pratiloma marriages. The *Manava Grhyasutra*[95] and the *Gautama Dharmasutra*[96] also require that one should marry a girl of the same varna. This shows that these lawgivers do not approve of intercaste marriages.

Coming to Manu himself, we find that he too does not favour intercaste marriages. He says that the twice-born persons shall take a wife of the same caste as himself.[97] For the first marriage, which is the only lawful marriage in his eyes, he recommends the bride of one's own caste.[98] He permits second marriage only when one is impelled by sexual urge and is unable to control himself.[99] In the case of the second marriage also he gives preference to the bride of the same caste and quire reluctantly mentions the possibility of marrying girls from other castes.[100] The use of the expression *kamatah* clearly shows that this concession had been made only to enable men to satisfy their sexual desires and not to give religious sanction to such marriages.

And even in these *anuloma* marriages Manu has set a definite order of preference. He would prefer *anuloma* marriage between a *brahmana* male and a *vaisya* female. He says, "Sons begotten by twice-born men from wives of the next lower castes are declared to be similar to their fathers though blamed on account of the fault in their mothers. But from a brahmana, with the daughter of a vaisya, is born a son called ambastha".[101] Thus we find that in the *anuloma*marriage with a girl of the next lower caste the son born, though tainted with the sin of his mother, belongs to the caste of the father and is not called a *varnasamkara;* but those born from the wife of the second or third lower caste are regarded as *varnasamkaras*. Manu further says, "Six sons begotten by Aryans on women of equal and the next lower caste have the duties of twice-born men; but all those born in consequence of the violation of the law, are, as regards their duties equal to the *sudras*".[102]

The fact that Manu does not allow *panigrahana samskara* in the case of an *asavarna* marriage, further supports the view that he does not approve of intercaste marriages. He clearly says, "The ceremony of joining the hands is prescribed for the marriage with women of equal caste.[103] He recommends other methods to be followed in marriages with the *asavarna* girls.[104] This clearly shows that he does not give a religious sanction to the anuloma marriages.

Manu has very clearly laid down that in all castes those children alone that are begotten in the direct order on wedded wives equal in caste and married as virgins, are considered as belonging to the same

caste as their father.[105]

That Manu is averse to all forms of *anuloma* marriage. He says "Children of a *brahmana* by women of the three lower castes, of a *ksatriya* by wives of two lower castes, and of a *vaisya* by a wife of the *sudra* caste, all these six are called base-born".[106]

Manu's disapproval of the *anuloma* marriages becomes all the more clear when he states that the mixed castes arise when members of one *varna* have sexual intercourse with women of another *varna*. According to him when both the parents are of the same varna, then and then alone good children can be had. He says, "As good seed springing up in good soil turns out perfectly well even so the son of an Aryan from an Aryan woman is worthy of all sacraments. In some cases the seed is prominent but in others it is the female womb; when both are equal the offspring is highly commended. The kingdom in which such bastards sullying the purity of the castes are born, perishes quickly".[107]

Manu's aversion to *anuloma* marriages is further evident from the fact that he does not allow the *asavarna* wife the same respect and the same rights to participate in the religious rites of the husband as he does to the *savarna* wife. As regards the position of the *asavarna* wife in the family Manu says "When twice-born men wed women of their own as well as of other castes, their seniority and habitation shall be according to the order of their caste".[108] As regards the right of the *asavarna* wife to participate in the religious duties of her husband, Manu says, "Of all his wives, the wife of the man's own caste shall attend to the husband's personal service as also to his daily sacred rites. While the wife of the same caste is alive, if through folly, one causes these duties to be performed by another wife, he is a *brahmana- chandala"*.[109]

And Manu's rules regarding the allotment of shares at the time of partition to sons born from mothers of different castes also show his aversion towards *anuloma* marriages. He does not allot equal share to sons born to a man from his wives of different castes. The son born of the *savarna* wife gets the largest share.[110] In this respect also the status of the *asavarna* wife is lower than that of the *savarna* wife.

As regards the social status of the *asavarna* wife it can be definitely said that Manu has placed her lower than the *savarna* wife. He clearly says, "The wives of the teacher who belong to the same caste must be treated as respectfully as the teacher himself; but those who belong to different castes should be honoured by rising and salutations only".[111]

It has to be further remembered in this connection that the

concession regarding the *anuloma* marriages is generally applicable only to those cases where the woman does not belong to the *sudra* caste. Manu's condemnation of *anuloma marriage* of the *brahmanas* and the *ksatriyas* with sudra woman is all the more severe. While dealing with *anuloma* marriages, although he has referred to the cases of the marriages of the brahmanas and the *ksatriyas* with the sudra females,[112] yet just in the next verse he condemns such marriages very vehemently. He says, "Under no circumstances whatsoever has a *sudra* wife been ordained for the *brahmanas* and the *ksatriyas* even though they be placed in peril.[113] Manu further expresses his aversion to such marriages by saying, "Twice-born men marrying through infatuation a girl of the low caste quickly reduce their family along with their offspring to the position of the *sudra*. Having placed a *sudra* woman on his bed, the *brahmana* goes to perdition and having begotten a son by her he falls from *brahmanya* itself".[114]

As regards the participation of the *sudra* wife in religious rites Manu says, "If the rites performed by one in the honour of the deities, manes and guests are dominated by one's *sudra* wife, then the manes and the guests do not eat of them and the man does not go to heaven".[115]

Emphasising the seriousness of the guilt of marrying a *sudra* woman' Manu says, "There is no expiation for him who has drunk the moisture of the mouth of a *sudra* woman, who has been tainted by her breath and who has begotten children on her."[116] Manu quotes several ancient views regarding the marriage with a *sudra* wife, which were somewhat liberal but which Manu himself does not approve of.[117]

His strong disapproval of a twice-born man's marriage with a *sudra* woman is further evident from the fact that he very reluctantly allots even one-tenth part of the father's property to the son born of a *sudra* wife,[118] and this also most probably in the absence of sons from higher-caste wives. For, he observes that a son born of a *sudra* wife to the *brahmana,* the *ksatriya* or the *vaisya* father is not entitled to any share in the property; whatever his father gives him he shall take.[119]

From what has gone before it can be rightly asserted that Manu does not favour the intercaste marriage but only gives an unwilling sanction to the moral lapses of the people, committed under the stress of the passions of sex and greed, and in doing so he has taken quite a generous attitude towards the women. Her offspring gets some status at least, though not equal to that of the children born of a *savarna* wife. Besides, the maintenance of the woman and her children is ensured on account of their getting a share in the property. In allowing this share

Manu has acted with great insight. He has made them safe even against their step-brothers who might well like to harm or even drive them away. Even the husband who after some time might lose his fancy for the woman and like to get rid of her, has been bound down to maintain her up to the end of her life. So here also we see that the great lawgiver has got a very sympathetic attitude towards the weaker sex. The marriage with the *asavarna* girl can at best be taken to be permissive only and not prescriptive in any sense.

Notes and References

1. Sexual union of two persons or more, temporary or permanent, having one of its chief objects, the procreations and case of the offspring and union that is sanctioned by the society through the performance of a definite ceremony is called marriage- *History of Prostitution In India,* p. 5
2. Ranade, *A Constructive Survey of Upanisadic Philosophy,* pp. 60-61. Keith, *Religion and Philosophy of the Vedas and the Upanisads,* Vol.II, p. 587.
3. Vas.VII. 3
4. Tab. Up. IV
5. Gaut III. 1.35, Baudh. Dh.S. II. 6.29.
6. Baudh . Dh.S.II. 6.29-31.
7. Sat. Bn.XII. 4.1.1
8. Tait. Up 1.11.1
9. Ap. D.S II. 9.21.2
10. Manu. VI. 89
11. *ibid.,* VI.88
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13. Chh. Up. II, 23.1
14. Manu. II, 230.
15. (a) *ibid.,* VI, 38, (b) *HIP,* Vol.II. p. 75
16. *HOS.* Vol. XXXII, p. 581.
17. Hir. G.S. 1.10.6
18. Br. Up. 1.4.3.

19. Manu. III, 77.79
20. *ibid.,* VI, 87,89,90.
21. M.L.Viyogi, *Jataka Kalina Bharatya Sanskrit,* pp. 170-176.
22. Kaut. I.11
23. Manu.VIII. 363
24. *Kama Sutra.* IV. 1.9.
25. Maciver & Page: *Society,* pp. 254, 263-264.
26. Manu. III.78
27. He mentions several times the wives and the sons of the teacher. cf. Manu. II. 207-212, 216-217.
28. Brown: *Social Psychology,* p. 73.
29. Maciver & Page: *Society,* p. 240
30. Manu VI. 89-90
31. *ibid.,* IX. 27
32. *ibid.,* III, 4.
33. *ibid.,* III, 21.
34. *ibid.,* IV. 27
35. *ibid.,* III. 28
36. *ibid.,* III. 29
37. *ibid.,* III. 30
38. *ibid.,* III. 31
39. Manu. III. 32
40. *ibid.,* III. 33
41. *ibid.,* III. 34
42. On Manu. III, 31,34
43. *ibid.,* III, 34
44. Manu. III, 23
45. *ibid.,* III, 24·
46. *ibid.,* III, 25
47. *ibid.,* III, 26
48. *ibid.,* III, 33-43
49. *ibid.,* III, 41
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52. *ibid.,* III, 38
53. *ibid.,* III, 53
54. *Hindu Law of Marriage and Stridhana,* p. 77.
55. *Major Social Institutions,* pp. 150 ff.

56. Vijiyarangam Vs. Laseman, 8 Bombay H.I.R. 244
57. Manu IV. 244
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62. *ibid.*, III, 6-7
63. *ibid.*, III, 8
64. *ibid.*, III, 9
65. *ibid.*, III, 11
66. Aiyer: *Evolution of Hindu Moral Ideals,* p. 57.
67. Manu III. 5
68. *ibid.*, V. 60
69. *ibid.*, IX. 186
70. *ibid.*, XI. 171-172
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72. *A New Mode of the Universe,* p. 508
73. R.V. X, 85.9,22,46
74. Gobh. Gr.S.II 5, Khad.Gr.S 1.4. 12.16., Ap. Gr.S.VIII.10-11.
75. Par.Gr. S. 1.8, San.Gr.S. 1.17.5, Katha. Gr.S.XXX 1.
76. Bau.Gr.S.IV. 1.10, Vai Gr.S.VI.13
77. Ram.I. 77.14
78. Ram.II. 119-34
79. Commentary on *Dhammapada,* 102.
80. Commentary on *Therigatha* No. 47
81. Vas. Dh.S. XVII.39.
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86. *Physical Disabilities in Wives in Sex in Civilisation.* p. 236
87. *Principles of Social Psychology,* p. 288
88. *Modern Marriages,* p. 50
89. *ibid.*, p. 14
90. Manu. VIII. 227
91. *ibid.*, IX. 69-70
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93. On Manu. IX 72
94. Ap. Dh.S.II. 6.13.1 & 3
95. Man. Gr. 3.1.7.8.
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98. *ibid.*, III, 12
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100. *ibid.*, III, 13.
101. *ibid.*, X. 6,8
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103. *ibid.*, III, 43
104. *ibid.*, III, 44
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107. *ibid.*, X. 69, IX. 34, X.61
108. *ibid.*, IX, 85
109. *ibid.*, IX, 86-87
110. *ibid.*, XI. 151,153.
111. *ibid.*, II, 210
112. *ibid.*, III, 13
113. *ibid.*, III, 14
114. *ibid.*, III, 15,17
115. *ibid.*, III, 18
116. *ibid.*, III, 19
117. *ibid.*, III. 16
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Chapter 4

THE WIFE

Importance of the Wife

As stated before Manu does not despise sex life. On the other hand, he recommends it and makes it compulsory for every individual, male or female, marry and enjoy the pleasures of sex, but in a controlled and regulated manner. He gives a very honoured and important place to the wife in the life of a man. He observes, "Between wives who are destined to bear children, who secure many blessings, who are worthy of worship and irradiate the dwellings, and between the goddess of fortune in the house, there is no difference whatsoever. Of the production of children, of the nurture of those born and of the daily life of men, women are visibly the cause. Offsprings, the due performance of religious rites, faithful service, highest conjugal happiness and heavenly bliss for the ancestors and oneself, depend on one's wife alone".[1] The Mahabharata also echoes forth the same type of sentiments when it says that the house though full of sons, daughters and daughters- in-law, is quite empty for a person if his wife is not there to supervise it; she is the surest solace to the husband; she is the only friend who never forsakes him in adversity; in fact a home without a wife is worse than a forest in point of dreariness.[2] Kalidasa also regards her as the husband's truest friend, counsel and companion.[3]

The comparison made between the wife and the goddess of wealth is justified. It is well-known that there is no comfort at home in the absence of the wife. Even when there is plenty of wealth, if the wife is absent, the householder is not able to attend to the feeding and other needs of friends and relatives that may happen to come in as guests. In fact they are as powerless as poor men. For this reason there is no difference between the goddess of wealth and women in their homes. The biological and the religious needs of a man for having a wife is also

apparent serve as she the fulfillment of the visible and invisible ends of men. For example, when desire for a sexual intercourse arises in a man, there is the possibility of his having recourse to any and every woman; but intercourse with maidens and wives of other men being prohibited, the said desire comes to be accomplished only through his own married wife. The married wife thus serves a visible end. Then again there is the saying that every religious act shall be done by the husband and the wife that a man is entitled to the performance of religious acts and thus it is clear that the accomplishment of the invisible purposes of a man also is dependent upon his wife.

Further the wife is a blessing to oneself as well as to his ancestors because she produces the child who frees his father from the debts he owes to his forefathers and also releases the forefathers themselves.

Manu regards the wife as the half of her husband though not the better half. He says that dividing his own body Prajapati became half male and half female.[4] Satapatha Brahmana also expresses the same ideas about the husband and the wife.[5] Thus according to Manu man does not make a whole by himself alone but attains completion in the company of his wife. The husband is one with his wife.[6]

Yajnavalkya, in the Brhadaranyaka Upanisad, has clearly explained the psychological unity of the husband and the wife. He says that the man who was originally one, cleft himself into two because he felt no pleasure in loneliness and wished for a second; these two became the husband and the wife. The two separately are like half of a shell; together they are one whole.[7] We are told in the Ramayana that Vasistha asked Sita to remain at home and rule the kingdom in place of Rama and argued that the wife is the very soul of him who marries her.[8]

The unity between the husband and the wife is of a permanent nature; it can never come to an end. Manu says, "Neither by sale nor by repudiation is a wife released from her husband; such we know the law to be which the lord of creatures made of old".[9]

A wife is obtained from the gods; she is not received like cattle and gold in the market. She is obtainable only as the result of man's meritorious acts done in his previous life and not otherwise.[10]

The wife is regarded as the most beloved person of a man. At the time of taking an oath in the court of law one was required to touch the head of his wife. It was believed that if there were the least doubt in his mind he would not swear by his wife. Further the wife is one of those nearest and the dearest persons by defaming whom a man

becomes liable to a fine of one hundred panas in the court of law. The husband is not to cast off his wife unless she be guilty of a crime causing loss of caste; if be casts her off, he shall be fined by the king six hundred *panas*.[11] Ordinarily, the husband is required to avoid even exchange of hot words with his wife.[12] There is fairly a good amount of reciprocity between the husband and the wife - the husband sufferer for the sins of his wife and *vice- vers*.[13] The wife also acquires the qualities of her husband as does the river those of the sea.[14] There was a tendency to excuse the wife even though she was guilty. This might be gathered from the statement of Manu that the king should not exempt from punishment even his wife who might be accused of having committed any wrong.[15]

Mutual Rights and Duties

Manu lays down in a concise form some rules regarding the mutual obligations of the husband and the wife. He declares that mutual fidelity till death is the gist of the highest dharma for the husband and the wife and says that men and women, united in marriage, should constantly so exert themselves that they may not be disunited and may not violate their mutual fidelity.[16]

Manu further says, "To be mothers were women created, and to be fathers, men; religious rites, therefore, are ordained in the Vedas to be performed by the husband together with his wife".[17] Medhatithi improves upon it and observes, "As the act of begetting is dependent upon both of them, no one of them is competent to perform the religious duties alone and, therefore, it has been ordained to be done jointly by the husband and the wife; and since alone by himself the husband cannot be entitled to the performance of any rites, he shall not abandon his wife even though she be hostile to him".[18]

Manu then dilates upon the good results which follow when the husband and the wife are on good terms with each other. He says, "The home in which the husband is always pleased with his wife and the wife also always, feels pleased with her husband, is indeed the most blessed home".[19] A husband who is pleased with his wife will not hanker after another woman and will be devoted to his own wife. The wife also who is pleased with her husband will not seek another man and will remain faithful to her own husband.

Now we shall proceed to an examination of the rights and the duties of the husband and the wife towards each other. First of all we shall deal with the duties of the wife towards her husband. She is

required to serve, obey and honour her husband. Manu says, "Him, to whom her father may give her or her brother with the father's permission, she shall obey as long as he lives and when he is dead she must not insult his memory. A faithful wife who desires to dwell in this as well as in the next world with her husband must never do anything that might displease him who took her hand, whether he be alive or dead.[20]

This reminds us of the talk that took place between Satyabhama and Draupadi. The former desired to know from the latter as to how she was able to rule over her five husbands and they were so obedient to her and were never cross with her. Satyabhama thought that it was perhaps due to some magical powers in Draupadi. But the latter assured her that all that was entirely due to her obedience and devotion to her husbands. She took her bath, ate and slept after them. She was always engaged in assisting them, was at their beck and call all the time and served them with all humility.[21]

First we shall deal with the question of the services to be rendered to the husband while he is alive. Manu lays great emphasis on this and says, "Even though destitute of virtue or seeking pleasure elsewhere or devoid of good qualities, yet a husband must be constantly worshipped as a god by a faithful wife. No sacrifice, no vow, no fast must be performed by the wife apart from her husband; if a wife serves her husband, she will, for that reason alone be exalted in heaven".[22]

In the Ramayana Sita says, "Women who love their husbands whether he treats them well or ill and whether he lives in the city or in the forest, attain high status; the husband whether wicked or lustful is the highest god to the wife of good morals".[23]

In the *Mahabharata Bhisma* reports a conversation between two women, *Sumana* and *Sandili*. The former wants to know by what penances the latter has been able to attain celestial regions. *Sandili* replies that it is not at all by virtue of any austere penance but by virtue of her obedience and devotion to her husband that she has been able to achieve the paradise.[24]

Manu's eulogy of the husband is due to the fact that he gives pleasure to the wife in both the worlds. He says, "The husband who wedded her with sacred texts always gives happiness to her both in season and out of season, in this world and in the next world".[25]

Yajnavalkya also says that women should act according to the words of their husband, this being their highest duty.[26]

Manu then proceeds to describe the rewards a wife gets for her

singular obedience to her lord and also the punishments she has to suffer for disobeying him. As regards the rewards he says, "She, who controlling her thoughts, words and deeds, never slights her husband, resides after death with him in heaven and is called a virtuous wife. In reward of such conduct a female who controls her thought, speech and actions gains in this life highest renown and in the next world a place near her husband".[27] Yajnavalkya also says, "She who is devoted to her husband's welfare, is well-behaved and has her senses under her control, attains fame in this world and the supreme state after death".[28]

So far as the punishments for disobeying the husband are concerned, Manu says, "By violating her duty towards her husband a wife is disgraced in this world; after death she enters the womb of a jackal and is tormented by foul diseases as a punishment for her sins.[29]

The next important thing expected of the wife is that she should always bear a smiling face.[30] Vatsyayana also says, "Let her shun angry words, angry looks, speaking with averted head, standing at the door and looking out".[31] Even though she might have reasons for anger and sorrow, yet when she sees her husband she should show that she is happy by means of a cheerful face, smiles, sweet words and so forth. Even if the husband himself is against her, she must not be downcast but remain smiling. Vatsyayana grants the wife some latitude in this respect and says, "If the husband sins against her, let her indeed be a little angry and scold him but not too much".[32] Kanva also gives the same advice to his daughter Sakuntala at the time of her departure from her father's place to that of her husband.[33]

Although it appears to be a very insignificant matter, yet its importance is great. A woman loses all her charms when she has an angry look or a rudeful face. In that state of mind she is unable to inspire love and rouse affection in the heart of her husband. In the opinion of Manu attractiveness and beauty in the wife is a very essential thing. He says, "If the wife is not radiant with beauty she will not attract her husband and if she has no attraction for him, no children will be born. If the wife is radiant with beauty the whole house is bright; but if she is destitute of beauty all will appear dismal".[34] If the wife is radiant with beauty she will win her husband's affection and when she is loved by him she will not desire the company of another man and consequently the family would remain pure and glorious on the other hand, if she looks ugly she will fail to attract her own husband who would neglect her. Then she would naturally be inclined to seek the company of others, and thus the whole atmosphere of the family would

be vitiated and it would lose all its glory. It may be noted in this connection that the term 'radiant with beauty' has to be understood in a wider sense; it includes the inner qualities also and not only the physical charms. A lady of noble virtues is sure to be cheerful and charming.

The third duty of the wife is to look after the household work. Manu says, "She must always be clever in the management of her household-affairs, careful in cleaning her utensils and economical in expenditure".[35] These things make the home attractive and the husband's mind does not feel tempted towards the charming things outside his home. This helps a good deal in maintaining peace in the family. This rule of law is based on a very deep study of the subtle working of the human mind.

She is further required to avoid drinking spirituous liquor, associating with wicked people, separation from the husband, rambling about, sleeping at unusual hours, and dwelling in others' houses. These are the causes of the ruin of a woman.[36] Medhatithi says that these contaminate the minds of women and they come to lose all fear of their father-in-law and others and also all regard for the public opinion. The result is that they are easily led astray into the evil ways of life.[37] We can very well realise the importance of restrictions impured by Manu when we see the embarrassed condition of the ladies in the crowded temples or at the bathing ghats.

Manu also requires that the wife should not seek to be independent. In her youth she must be under the control of her husband; she must not seek to separate herself from him. By leaving him she would make both her own and her husband's families contemptible.[38] Narada says that when the husband is no more, his *sapinda* relations shall protect her; in their absence some one on her father's side shall be her protector and on the total extinction of both the families the king shall be her guardian. Manu lays down a general principle that by a woman nothing must be done independently even in her own house.[39]

Now as regards the rights of the wife. The first and the foremost right to the wife is to participate in the religious activities of her husband. In ancient times religious rights were esteemed very highly. In comparison with these even the political and proprietary rights faded into insignificance. The social status of an individual was usually determined by the position which religion accorded to him in its rites and rituals. The privileges given to the wife in religious matters

considerably raised her status in the society. She has ever been taking important part in the religious activities of her husband from times immemorial. In the Rgveda it is said, 'They, accompanied by their wives, worship the fire who is worthy of worship.[40] In the *Taittiriya Brahmana* occurs a passage 'May the wife unite with her husband by means of the good deeds; they two become yoked like oxen to the sacrifice; may the two be of one mind and destroy their foes; may they attain non-aging light in heaven'.[41] It further says that half of the sacrifice of a person goes a waste whose wife keeps a way from it.[42] Apastamba says that from the time of marriage the husband and the wife work together in religious matters, share the rewards of such acts together, have dominion over the wealth of the family, and the wife can make gifts in the absence of the husband if occasions so require.[43] Asvalayana says that the fire kindled at marriage is carried by the married pair to their home to be worshipped by them.[44] Gobhila says that both the husband and the wife should offer sacrifices or the wife may offer them in the evening and the husband in the morning.[45] Commenting on the etymology of the word *patni* Panini says that it can be applied only to the wife who shares in the sacrifice.[46] This, however, implies that there were wives who were not entitled to take part in it.

In the days of Manu the wife continued to enjoy her religious rights as before. He says that from the food cooked in the evening the wife should offer sacrifices but without the *mantras*.[47] And the reasons for the exclusion of women from reciting *mantras* have already been discussed in this work earlier. This might have been due to the fact that for want of proper training in reciting mantras they could not have been able to pronounce them correctly and this might have made them feel small in the presence of other persons.

When the *sraddha* is performed the wife together with her husband is required to eat the remains of what the *brahmanas* have eaten. Manu observes, "After the *brahmanas* have dined the householder and his wife shall eat what remains".[48] Yajnavalkya also holds the same opinion. The wife is thus treated as an equal sharer with her husband in this matter. And on the occasion of *pindadana* ceremony also she is to eat the middle portion of the *pinda* with a view to begetting a noble and virtuous son.[49]

In another place Manu asks the husband to employ the wife in the performance of all sorts of religious duties.[50] The smrti writers like Yajnavalkya, Sukra, Brhaspati and Visnu, who flourished after Manu, do not mention the religious rights of the wife separately.[51] This is most

probably due to the fact that by the beginning of the Christian era wives had ceased to enjoy religious rights in the company of their husbands.

Manu insists that due performance of religious rites depends on one's wife alone.[52] This rule regarding the preference to be given to the *savarna* wife in matters of religious rites clearly indicate that the wife is entitled to participate in religious acts of her husband. He says, "Among all the twice-born men, the wife of equal caste alone and by no means a wife of a different caste, shall personally attend upon her husband and assist him in doing the sacred rites.[53] He further observes, "Religious rites, therefore, are to be performed by the husband together with his wife.[54] As the act of begetting a child is dependent upon both, the man's religious rites have been ordained to be performed along with his wife.

It is on account of her close and compulsory association with her husband in all his religious performances that Manu ordains that a twice-born man versed in the sacred law, shall burn the dead body of the wife of equal caste, who dies before him, with the sacred fires used for the *agnihotra* and with the sacrificial implements.[55] In order that the performance of the domestic duties and the religious rites may not be broken and discontinued altogether, he recommends that having given the sacred fires to his wife, who dies before him, he shall marry again and kindle the fire a new.[56] It is a noteworthy fact that Manu is criticised for permitting the man to marry a second time and forbidding a widow from doing so. In so doing he appears to be partial to the males but quite unfair and unjust to the women-folk. But they fail to understand the spirit of this rule in the context of giving religious benefits to the family of the man. The widow could not give such benefits if she had been permitted to remarry; but the male person could do so by marrying a second time. As most of the religious duties could by performed only when accompanied by the legally married wife, the family would be deprived of the religious benefits altogether if a widower was stopped from marrying again.

But one thing more deserves notice in this connection. The wife is not authorised to do religious acts independently of her husband or without his consent as Manu ordains, "There are no specific sacrifices for women independently of the husband nor *vratas* nor fasts without his consent".[57] It is in view of this that he does not permit a *brahmana* to attend a feast given on the occasion of the sacrifice performed by a woman.[58] The prohibition most probably relates to that sacrifice which has been performed by a woman without the consent and assistance of

the husband. The great lawgiver considers a sacrifice incomplete unless performed by the husband and the wife jointly. If the husband kept away and the wife performed the sacrifice alone she was likely to make mistakes and thereby spoil its merits, as she could not be quite efficient in conducting the same.

From what has gone before it can be easily inferred that both the husband and the wife were equally important for the sake of performing a sacrifice. One could not do it without the other. And naturally so, for, when the husband could not be benefitted by the sacrifice if his wife was not with him in it, then how could the wife be benefitted without the participation of her husband?

The rules laid down for the entertainment of guests by a man when he is away from home, also throw some light on the importance of the company of the wife with her husband. If one is away and his wife is not with him, it is not essential for him to entertain guests; but he has to do so if his wife is with him having the religious fires with her.[59] From this it follows that ordinarily it was she who used to be the custodian of religious fires, the possession of which was surely a religious act.

Thus we have clearly seen that Manu has nowhere declared that the wife is not eligible to participate in the religious rites performed by her husband. On the contrary, she has to take quite an active and important part in them. The only restriction put upon her is that she is not to recite the Vedic mantras, the reasons for which have already been discussed.

As the foremost duty of the wife was to serve her husband she had the right of residing in his house as well as that of getting maintenance from him. Manu says, "The husband receives his wife from the gods and not according to his own sweet will; doing what is agreeable to the gods he must always support his devoted and faithful wife;[60] she should not be abandoned even though she suffers from the defects of being disagreeable or sharp-tongued and so forth.

The right of a Hindu wife to maintenance is not regarded as based on any contract but as connected with the right of ownership in the property with her husband and rests is why this right is not forfeited even if she later on becomes unchaste or hostile to the husband. Sir Ashutos Mookerjee also maintained that the wife's right to maintenance is to be ascribed to a kind of identity with her husband in their proprietary rights.[61]

About the wife's right of residence in her husband's house Manu says that she shall not be cast off unless guilty of a crime causing loss

of caste; and if the husband casts her off without her being so guilty, he shall be fined 600 *panas* by the king.[62] The forsaking of the out-caste wife consists in giving up all intercourse with her and forbidding her to do household work; but food and clothing must be given even to the outcaste wife and she should be allowed to live near the husband's house. The right of the wife, to maintenance and residence in the husband's house is not forfeited even if she be corrupt or misbehaved. At another place Manu clearly says that even an exceedingly corrupt wife is to be allowed to remain in the house; she should be only confined to one apartment of the house and compelled to perform the penance which is prescribed for males in cases of adultery.[63] The *Mahabharata* also says the same thing[64] and Yajnavalkya too allows her a bare maintenance.[65]

It is clear that Manu is humane enough to allow at least the barest maintenance even to an unchaste wife and thus to save her from the pangs of utter destitution. In no case was she to be forsaken and cast adrift on the world abroad. On the other hand, a fair opportunity was to be given to her for improving herself.

It was the right of the wife to be provided for and maintained by the husband. Even when away from home, the husband was responsible for her maintenance. Manu says, "A man who has business abroad may depart after securing a maintenance for his wife; for, even a virtuous wife may be corrupted if she be distressed by want of subsistence".[66] It is quite likely that through hunger and other forms of privation, the distressed wife may fall into corruption and maintained herself by betaking herself to another husband. Manu believe in the truth of the adage *'bubhuksitah kim na karoti papam'*. The wife was to observe all the rules of good conduct and lead a restricted life only when the husband had gone abroad after making provisions for her maintenance. In the absence of it she was to subsist through blameless manual work such as spinning, lacemaking and the like.[67] Yajnavalkya says that a woman whose husband has gone abroad should avoid amusements, ornamenting the body, participating in social gatherings and festivals and visiting others' houses.[68]

A verse attributed to Manu goes so far as to say that one must maintain his virtuous wife by doing even a hundred bad acts.[69]

Thus the foremost duty of the husband is to maintain his wife. His next important duty is always to protect her. Manu lays very great emphasis on having a watchful eye on the wife. He says, "Women must particularly be guarded against evil inclinations, however trifling they

may appear to be; for, if they are not guarded, they will bring sorrow on both the families. Considering it the highest duty of all castes even weak husbands must strive to guard their wives".[70] He clearly points out the usefulness of guarding one's wife when he says, "He who carefully guards his wife preserves the purity of his offspring, virtuous conduct, his family, himself and his means of acquiring merit".[71] Harita explains in a very lucid manner how a corrupt wife causes all round destruction. He says, "One must guard his wife against sensual contact, as the ruin of the wife involves the ruin of the family, the ruin of the family involves the ruin of the line, the ruin of offerings involves the ruin of the soul, and the ruin of the soul means the loss of all the thing".[72]

Then Manu proceeds to explain how the purity of the offspring is secured by guarding the wife. "The husband himself after conception, becomes an embryo and is born again of her. So as the male is to whom a wife clings, so even is the son whom she brings forth; let him, therefore, carefully guard his wife in order to keep his offspring pure".[73] In order to emphasise the urgent necessity of guarding the wife Manu dwells in detail upon the weaknesses of the woman's mind. He says, "Women do not care for beauty nor is their attention fixed on age; simply for the fact that he is a man, they give themselves to the handsome and to the ugly. Through their natural heartlessness, they become disloyal to their husband, howsoever carefully they may be guarded in this world".[74] These defects are inherent in their nature; for Manu says, "When creating them, the creator allotted to women a love of bed, of their seat and of ornaments, impure desires, wrath, dishonesty, malice and bad conduct".[75] He then refers to certain Vedic passages that go to prove that faithlessness on the part of the women is their inherent character.[76]

But it must be observed in this connection that these statements of Manu are not so much to condemn the women as to emphasise the necessity of guarding them. The object of Manu in censuring women is to lay stress on the importance of guarding them and not to paint them in dark colour.

But this guarding is not to be done by force. It is not possible for the husbands to guard their wives by force. Manu suggests three ways of doing this. Firstly, the importance of chastity should be inculcated in their mind so that they might themselves be their own guards.[77] Secondly, they should be kept away from drinking, associating with wicked people, tendency to keep away from the husband rambling, sleeping and residing at others' houses, because these things help to

corrupt the mind of women and they come to lose all fear of their fathers-in-law and others as also regard for public opinion.[78] Thirdly, the husband should try to keep her engaged in the management of the household- affairs so that she may not get idle moments to think or do any undesirable or shameful acts. Manu says, "Let the husband employ his wife in the collection and expenditure of his wealth, in keeping everything clean, in the fulfillment of religious duties, in the preparation of his food and in looking after the household- utensils".[79] Thus in Manu's opinion the management of the household-affairs is the best means of keeping the wife's mind engaged, which may otherwise be led astray since 'an empty mind is the devil's workshop'.

Vatsyayana, likewise, describes her as the manager of the home; she must look after the household-work and arrangements; she is to make purchases of the articles of domestic use and she has also to keep the account of the income and the expenditure. He goes to the extent of saying that the wife could take the liberty of rebuking her husband, if he were spendthrift or committed any wrong against her.[80]

Draupadi proudly claims that she alone knows better than anyone else about what the servants, attendants and even the cowherds and the shepherds in her palace do and what they do not do; she alone has the fullest knowledge of the confidential details of the wealth and the income and the expenditure of the royal establishment of her lord. Her advice to her husband on what his duty is and what it is not, at the time when he declares his intention to renounce the world and to lead an ascetic life, clearly indicates the status of the wife as the adviser of her husband.[81] Kalidasa also refers to the busy life of a housewife.[82]

A german proverb says that the duties of women are contained in three words - *Kirche*(church), *Kucha* (kitchen) and *Kinder* (children). Looked at with shallow and conceited mind these duties may appear inferior and suited to inferior intellect, but beheld with the deep and foreseeing vision these duties are the highest and deserve to be discharged by very efficient persons.

The Greeks also believed that the wife's primary duty was to look after the household-affairs. Hans Licht observes, "The housewife must know how to make clothes, be experienced in the preparation of wool and give every servant the task suited to her. The money and the property acquired by her husband's labour, she must keep together and make an intelligent use of it. Her chief task is the nourishment and upbringing of the little children; like the queen bee, she has not only to distribute amongst the slaves, both male and female, the tasks which

suit them but also to attend to the health and welfare of the domestics. She must instruct those belonging to the family in everything worth learning and govern them wisely and uprightly".[83]

The importance of the engagement of the wife in the household-duties is fully brought out by the following observation of Charles Cooley. He says, "Nothing works more for sanity and contentment than a reasonable amount of necessary and absorbing labour, disciplining the mind and giving one a sense of being of use in the world. It seems a paradox to say that idleness is exhausting but there is much truth in it, specially in the case of sensitive and eager spirits. A regular and necessary task rests the will by giving it assurance, while the absence of such a task wearies it by uncertainty and futile choice. Just as a person who follows a trail through the woods will go further with less exertion than one who is finding his this among women of the richer classes is the chief cause of the restless, exacting and often hysterical spirit which is harassing to its owner and everyone else and which tends towards discontent, indiscretion and divorce".[84]

Sex and Married Life

Manu does not despise sex life. At the same time he does not allow the couple to indulge in uncontrolled and excessive sexual intercourse. He mentions specific days on which alone sexual intercourse between the couple would be desirable. He regards copulation as a religious[85] duty because through this alone could a son be begotten who gave spiritual benefits to the family. It was done not only for the sake of carnal enjoyment but was a sacred duty of the husband. Baudhayana says, "If a man does not approach his wife during the period for three years he incurs the sin of killing the embryo. He who does not approach his wife during the period and who approaches her beyond the period, the sin of both is equal".[86]

The Greeks also had a similar idea about the sanctity of marriage. It was regarded by them as the fulfillment of duty to the gods. It was the pious duty of every citizen to leave behind in his children, the servants and the worshipers of gods. It was also considered to be a moral duty to ensure the continuance of the state by the procreation of children.[87] Plato elevants marriage to a legal demand and recommends fines and loss of civil rights for those who choose to remain single.[88]

The religious sanctity of this act was so prominent in the mind of Manu that he prescribes specific dates on which alone a man is to seek the company of his wife. He says, "Let the husband approach his wife

in due season, being constantly satisfied with her alone; he may also being intent upon pleasing her approach her with a desire for conjugal union on any day excepting the *parva* days".[89] According to Kautilya, if a man shows indifference to sexual intercourse with his wife after her monthly ablution, he is guilty of the neglect of his duty.[90]

As regards the due season Manu says, "Sixteen nights including four other days which are censured by the virtuous, are called the natural season of a woman".[91] And from among these sixteen he condemns the first four nights, the eleventh and the thirteenth.[92] Out of the remaining ten the fifth, the seventh, the ninth and the fifteenth are further ruled out on the ground that only female children are born on these nights.[93] And *Amavasya, Paurnamasi, Chaturdasi* and *Astami* are also to be avoided on the ground of their being *parva* days.[94] Yajnavalkya also lays down similar rules.[95]

Now Manu lays down a general dictum in this connection. He says, "A male child is produced by a greater quantity of male seed, a female child by the prevalence of the female seed; if both are equal a hermaphrodite is born; if both are weak in quantity a failure of conception results".[96] This emphasises the importance of the strength of the male semen for the sake of procuring male child. If the man's semen is for some reason lacking in strength, the possibility of the birth of a male child is very little, although the pair may meet on even days. Therefore, one should not be cocksure about having a male child simply by seeing his wife on even days. He should try to improve his strength and lessen that of his wife; a man desirous of getting a male child should see to it that he grows strong in semen by taking nourishing food and the wife goes weaker by observing fast or taking light food.

Manu says, "He who avoids women on the six forbidden nights and on the eight others is as good as a brahmachari in whichever order he may live".[97] He means to say that if out of sixteen days he avoids the first four days, *ekadasi, trayodasi, amavasya, astami, paurnamasi, chaturdasi* and the fifth, the seventh , the ninth and the fifteenth nights and has sexual intercourse on two nights only, he is as good as a *brahmachari;* he is in no-way less honourable than him. The honour was to be given to him also who was living in the Grhasthasrama, which was treated by the followers of the renunciate school to be not very dignified among the Asramas. The use of yatratatra also alludes to this.

Manu is very particular about the fact that one should avoid sexual intercourse even with his wife during the period of her menstrual flow. He says, "Let him, though mad with desire, not approach his wife when

her courses appear; nor let him sleep with her in the same bed".[98] He emphasises the evil consequences of having sexual intercourse with such a wife and says, "The wisdom, the energy, the strength, the sight and the vitality of a man who approaches a woman covered with menstrual flow, utterly perish".[99] And then he enumerates the advantages of avoiding it during the period. He says, "If he avoids her while she is in that condition, his wisdom, energy, strength, sight and vitality will increase".[100]

Not to speak of sexual intercourse with a woman during her monthly course, a man is required to avoid touching her person and even talking to her. If he happens to touch her, he is required to take a bath in order to purify himself.[101] A woman under monthly course becomes purified on taking a bath after the flow stops.[102]

Apart from the question of filth and dirt, the rule is based upon very sound physiological principles. During the periods the anatomic condition of the woman is in a state of great turmoil. Not only the sexual organs but her whole organism requires peace and rest so that the requisite secretion might take place undisturbed at the end of which she may feel refreshed and vigorous. If, on the other hand, she is disturbed, the result would be just the reverse. There will be no pleasure also to either party, and the man himself is likely to catch some disease. Moreover, the very object of the act which is to produce a male child, will be defeated, for conception is quite impossible so long as the flow is going on.

Supercession

In the *Manusmriti* we come across a technical term *adhivedana* which means forsaking a wife and taking another. It implies that a wife might in certain cases be deprived of her conjugal rights which were transferred to another wife taken by the man later on. This differs from polygamy in this that in the latter all the wives could enjoy the conjugal rights together but in the case of supercession conjugal rights of a superceded wife were taken away and bestowed upon the second wife who superceded the previous one. But supercession could not be possible so long as one's wife continued to be virtuous and was endowed with offspring. if, however she was wanting in any of these two things, the man could take another wife; but in polygamy a man was free to have more than one wife without any such restrictions.

Manu also allows supercession under the following conditions only. He says, "She, who drinks spirituous liquor, is of bad conduct,

rebellious, diseased mischievous or wasteful, may at any time be superceded by another wife".[103] In this verse the supercession of that wife is recommended who is devoid of noble qualities and virtues and besides, has got certain positive defects in her. Such a wife is unable to participate in the religious activities of her husband, cannot too after the house- holdwork in a proper way and due to her bad behaviour and conduct cannot keep her husband pleased. On account of all these defects in her she does not deserve the privileges of a wife and is thus dethroned from her position.

But Manu enjoins great caution in this matter. He says, "The barren wife shall be superceded in the eighth year, in the tenth whose children die off; in the eleventh, she who is bearing daughters only; but immediately she who talks harshly".[104] The main principle behind the supercession of the first three types of wife is the anxiety for having a son. A son was absolutely necessary for offering the prescribed oblations to the ancestors and to secure a place for them in heaven; so Manu permits the husband to take a second wife if the first one is unable to give birth to a son. But in taking this decision no hurry is to be made. Sufficient time is to be allowed to pass in order to make it certain that the wife is really barren or incapable of producing a male child. Eight years at least had to elapse before barrenness could be confirmed. If very short-lived children or daughters alone were born a further period of waiting for two to three years was prescribed.

One thing deserves special consideration in this connection. Manu says that a sharp-tongued wife speaking unpleasant things is to be immediately superceded. This has been regarded by some modern writers as a monstrous principle. But if we look closer into it much reason will be found behind it. Manu lays great emphasis on the fact that the wife should not be quarrelsome or even harsh in speech. If she is quarrelsome none of the duties of the married life could be properly performed nor could the pleasures of life be enjoyed in her company; and also there could be no peace in the family.

Among the Indians joint family-system has ever been prevalent and continues even up to this day. Some families grow so large that they become unmanageable. Still on account of various advantages the members like to live together and put up with minor inconveniences. Therefore, it is very essential that everyone in the family should be very considerate about the feelings and sentiments comforts and conveniences of the rest of the members. Without this there cannot be any peace in the home. So if the wife was harsh in speech, she could

not be able to pull on well with others and everything in the house would go wrong and the religious as well as the daily duties of the man would not be performed properly. Even the chances of procreating children would be precarious for, a harsh-tongued wife would not attract her husband.[105] Even the domestic duties cannot be performed properly if the wife is quarrelsome. It is in view of these things that Manu permits the supercession of a sharp- tongued wife.

Manu's emphasis on the good nature and good conduct of the wife is so great that he says, "Even a sick wife who is kind to her husband and virtuous in her conduct, must be superceded only with her own consent and must never be disgraced".[106] Thus Manu is not in favour of superceding a sickly wife if she is well-behaved towards her husband. This applies to the barren wife as also to her that bears daughters only, because all these have been mentioned in the same context and in none of these is there any reason why she should be disgraced.

We have just seen that the wife who is a drunkard, is false in conduct, is rebellious, is diseased, is mischievous or is wasteful, is to be superceded and securing her permission is not necessary at all. But if she gets angry on being superceded, what is to be done with her? Manu says, "A wife, who being superceded, in anger departs from her husband's house must be instantly confined only for so long as she becomes free from anger and comes to her senses. But if it is not possible to control her through confinement, she is to be abandoned in the presence of the family.[107] Abandoning it does not mean that she is to be abandoned altogether, but she is to be left with the family of her paternal relations till her anger subsides and she is in a position to live peacefully in her husband's house.

This provision of supercession is also the result of the wide outlook of the lawgivers. To ensure happy relations among the members of the family and the procreation of children it was essential that a wife who could not be helpful in these things should have given place to another who might have been expected to do better. But even while permitting supercession these lawgivers have given due thought and consideration to the superceded wife. It has not been allowed thoughtlessly but only as a last resort to serve nobler purposes. Besides, it might be meant to serve as a check upon the womenfolk from becoming self- willed and arrogant.

Divorce

Divorce does not appear to have been known to the Vedic Aryans.

We know not a single verse in the Samhita literature broken gives even the faintest idea that a nuptial tie could be broken on any grounds whatsoever. On the contrary, there are passages that expressly lay down that there can be no dissolution of the sacred bond of marriage.[108] Sutra literature also does not seem to allow divorce. Apastamba observes that if the marriage-vow is transgressed both the husband and the wife certainly go to hell and prescribes a very humiliating penance for him who abandons his wife.[109] Vasistha also enjoins that a wife can never be abandoned by a man on any ground.[110]

Kautilya makes some important observations on divorce. According to him there could, on no account, be dissolution of the marital tie if the marriage was celebrated in one of the first four forms.[111] As regards those cases where marriage was performed in the last four forms he observes, "A wife hating her husband cannot be released from the husband if he is unwilling to let her go, nor can the husband get rid of the wife if she is unwilling to leave him; but if there is mutual hatred then release of one from the other is possible. If a man fearing danger from his wife desires release from her, he shall return to her whatever was given to her on the occasion of her marriage. If a woman under the apprehension of danger from her husband desires divorce, she shall forfeit her claim to her *stridhana*".[112]

And Manu does not allow divorce at all. Divorce cannot find a place in the system where the law is, "He only is a perfect man who consists of his wife, himself and his children".[113] In Manu's opinion man as a social unit consists of himself, his wife and his children. When the wife and the husband are the parts of one whole no question of the severence of the parts from the whole can arise. Therefore, Manu observes, "Neither by sale nor by repudiation is a wife released from her husband".[114] He proceeds on to say, "Let mutual fidelity continue until death; this may be considered as the gist of the highest law for the husband and the wife".[115] This attitude of Manu is due to the fact that he does not consider marriage to be a mere contract. It is a lifelong union between man and woman brought into effect by a gift from the gods. A mere contract alone can be nullified and not a gift, if once accepted. He says, "The husband receives his wife from gods and not according to his own will; doing what is agreeable to gods he must always support her".[116] These statements clearly show that Manu does not contemplate divorce between husband and wife.

In the opinion of Manu the husband has got no right to cast off his wife unless she be guilty of a crime causing loss of caste; if he does so

he will be severely punished by the king. Even if she is an outcaste, she is not to be cast off. She shall be made to undergo the penance prescribed for the outcaste males; but she shall stay close to the house and be given food and clothing.[117] The forsaking of the outcaste wife consists in giving up all intercourse with her and in forbidding her to do household work but the giving of food and clothing is not forbidden.

Even if there are some defects in the behaviour of the wife, she is not to be cast off. Manu says, "For one year let a husband bear with a wife who hates him; but after the lapse of a year, let him deprive her of her property and cease to cohabit with her".[118] This rule appears to apply to a case where the husband is perfectly good and still the wife hates him. Manu goes on to say, "She who shows disrespect to the husband who is addicted to some evil passion, is drunkard or diseased, shall be deserted for three months and be deprived of her ornaments and furniture".[119] This, most probably, applies to a wife who shows disrespect to the husband who has got some moral or physical defects in him.

Then Manu proceeds to that case where a wife shows disrespect to such a husband who is an outcaste or an eunuch or one suffering from incurable disease. He says, "But she who shows aversion towards a mad or an outcaste, a eunuch, one destitute of manly strength or one afflicted with such diseases as punish-crimes, shall neither be cast off nor be deprived of her property".[120] In this case the wife is liable to no punishment at all, as such a husband is not entitled to command any respect from his wife. Such were the rules to be observed in the cases where the wife's behaviour towards her husband was not very satisfactory.

Then he passes on to cases where a wife commits adultery. Even in such cases she is not to be abandoned. Manu says, "An exceedingly corrupt wife, let her husband confine to one apartment and compel her to perform the penance which is prescribed for males in cases of adultery.[121] Even when she goes on repeating the crime she is not to be abandoned; she is only to undergo heavier penances. Manu says, "If being solicited by a man of equal caste she is again unfaithful, then *Krchchhra* and *Chandrayana* penances are prescribed as the means of purifying her".[122] Even after indulging in gross immorality she is capable of being purified.

These rules clearly show that even on grounds of moral lapses she is not to be abandoned altogether. She might be put to death by the king but could not be abandoned by her husband.[123]

And in her turn, the wife too has got no right to abandon her husband and take to another. Manu says, "If the husband went abroad for some sacred duty, she must wait for him eight years, if to acquire learning or fame, six years, and if for pleasure, three years".[124] Manu is silent as to what is to be done by her after the expiry of the periods mentioned. It appears that before the lapse of the said time, she is to maintain herself by unobjectionable industries but after that she may have recourse to objectionable ones also. It is, however, noteworthy that he permits the wife alone to divorce her husband but not vice versa. The husband could at most desert his wife in very special cases; but this did not amount to actual divorce. It was something like the modern 'judicial separation' and that also was to be granted only in very exceptional cases. One very important point of distinction between the divorce and the desertion is that in the former, partners are allowed to marry again after divorcing each other while in the latter they cannot do so.

The reason why the divorce is not allowed is to be traced to the nature of the marital relation, which regards the nuptial tie as incapable of being dissolved during the life-time of the husband and the wife and which endures even beyond it. It is, therefore, clear that the great lawgiver never favoured divorce, rather he strongly opposed it. The principle in forbidding it is the same as that in prohibiting widow-marriage; it might lead to the lowering of the moral standard, raising quarrels between the families, encouraging insincerity and faithlessness between the pairs, creating troubles about property and to other difficulties arising out of these. One thing is very remarkable. While dealing with the law of divorce the law-giver has been very careful about the well-being of the society and about making provision for the maintenance of the woman. The member of the weaker sex is not expected to be able to procure her livelihood easily. Hence it is that she has to be given food and clothing in any circumstances whatsoever. All conjugal relations might be stopped and suspended but she is never to be thrown out in a state of helplessness.

This view of things finds further support in the fact that the king could go to the length of giving capital punishment to a woman if she persisted in her adulterous ways and neglected her husband; but still then she was not to be thrown out in a state of helplessness. This means that they preferred death to divorce for the woman. Moreover, divorce was bad for the children also that might have been born to the pair before they developed hated against each other. So we see that in

prohibiting divorce they considered the well-being of the woman, of the society, of the children and of all.

Modern western sociologists also do not believe in divorce. They hold that marriage is a discipline and not merely a picnic 'on today and off tomorrow'. Urwick says that the true goal of marriage lies in the consciousness of a permanent and unbreakable friendship.[125] Mackenzie holds that the normal function of the family is to secure what is best for the *nurture* of the children and this can be best realised if the parents remain faithful and united throughout their life.[126]

Laws against Adultery

Manu denounces in strong terms sexual intercourse with another's wife. He says that there is nothing so harmful for long life as this.[127] Heavy punishments are prescribed by him for persons committing adultery with the wives of others. He says, "Men, who commit adultery with the wives of others, the king shall cause to be marked by punishments which cause terror and afterwards banish them.[128] Considering human frailties and the weaknesses of man's mind the view of Medhatithi appears to be saner. Man's moral lapses on some occasions are difficult to be accounted for. But the divine element in him always helps him to rise higher. Therefore, to treat such persons on a par with the habitual criminals would be rather unfair. The wrongful act of a man committed for the first time deserves a light treatment. Such a dealing with him may help him in improving himself in future. On the other hand, a very harsh treatment might drive him to desperation and he may feel inclined to indulge in sinful acts regardless of all consequences. The principle of *Tobah* in Islamic laws also supports this view.

Manu gives a justification as to why he prescribes so heavy punishments for adultery. He says, "By adultery is caused a mixture of the castes among men; hence follows sin which cuts up even the roots and causes the destruction of everything.[129] If mixture of the castes takes place, the sacrifices cannot be offered properly because persons duly qualified for offering sacrifices will become scarce and if sacrifices are not duly offered there will be no rainfall and in its absence everything will perish.

Not to speak of the actual intercourse, even such acts as might contribute to it are regarded as adulterous and heavy punishments are prescribed for doing them. Manu's intention in doing so is, most probably, to nip this bad tendency in the bud and not to allow it to grow

any further. He says, "A man formerly accused of such offences, who secretly converses with another man's wife, shall pay the first amercement. But a man not before accused, who thus speaks with a woman for some reasonable cause, shall not incur any guilt since in him there is no transgression".[130] In the latter case Manu prescribes no punishment, apparently because in this case there is little apprehension of any danger. Manu is cautious enough to guard against all chances of moral lapses. Conversation brings people together and the talk between members of the opposite sex is generally relished by each other. This may lead to intimacy between them which might pave the way to undesirable acts in course of time.

Manu further says that if even an innocent person, though forbidden for some reason from conversing with someone's wife, persists in doing so, he shall be fined one gold coin.[131]

Kautilya also lays down very strict rules in this matter. He says, "If a man and a woman make signs to each other with a view to sensual enjoyment or carry on secret conversation, the woman shall pay a fine of 24 *panas* and the man double the amount".[132] He also recommends a fine to be inflicted upon such men and women as hold out their hair and the tie of their dress round their loins. For holding conversation in suspicious places he recommends that the fine should be substituted with whips. With regard to a man and a woman who though forbidden to carry on any mutual transaction help each other, Kautilya ordains that the woman shall be fined 12, 24 or 54 *panas* according to the nature of help and the man at double the above rates.[133] In such a case Yajnavalkya also recommends a fine for both of them. He says that if a man converses with a woman who has been previously forbidden to do so, the woman shall pay a fine of 100 *panas* and the man, of 200 *panas*. If both have been forbidden, the punishment shall be the same as that in the case of adultery.[134]

When a woman is in a lonely place even the common courtesy of greeting her is not to be observed, for this may lead on to further talks which might not be desirable. Manu says, "He who accosts the wife of another man at a *tirtha*, outside the village, in a forest, or at the confluence of rivers, shall suffer the punishment for adulterous acts".[135] Such places are generally deserted and none except one desiring water goes near then, as a rule it is places like this that are chosen by lovers to meet at; it is for this reason that conversing at watering places has been forbidden. He further says that this prohibition is applicable also to one who has not been accused previously as also to one who

converses on business.

Such acts also as might lead to intimacy between a man and a woman or rouse sensual feelings in either or give vent to amorous thoughts are positively forbidden by Manu. He says, "Offering presents to a woman, romping with her, touching her ornaments and dress, sitting with her on a bed, all these acts are considered adulterous".[136] Yajnavalkya also appears to hold the same view when he says, "Touching of clothknots, of the cover over the breast or of her thighs or conversing with her at improper places and times and sitting with her on the same bed - all this is adultery".[137] Even if one touches the ornaments simply because they belong to a particular lady, the act amounts to adultery and the man is liable to punishment. The psychology behind all these restructures is that, if such acts as conversation and the rest were treated lightly then men would be tempted to repeat them and by frequent conversations with women their passions would become whetted, and falling a prey to the arrows of Cupid they would commit the acts even at the risk of their lives. But if at the very first approach, the man is snubbed with severe punishment, these little acts would not be repeated and the actual act would be averted.

Touching of each other's body even with mutual consent is regarded as adultery. Manu says, "If one touches a woman in a place where she ought not be touched or allows oneself to be touched in such a spot, all such acts done with mutual consent are declared to be adulterous.[138] This is most probably due to the fact that it would stir up their sexual passion which would lead to actual intercourse. There is no wrong if the man happens to touch the hands or the shoulder or the back when taking down a load from her head, whereas it would be very wrong to touch her lips or chin or breasts or such other parts.

Manu treats all the above-mentioned cases as those amounting to adultery and prescribes the punishment of death to the guilty person provided that he be not a *brahmana*.[139] Baudhayana also prescribes the same punishment.[140] Manu justifies the severe punishment on the ground that the wives of all the four castes must always be carefully guarded.[141] Whosoever's wife she may be, she needs to be guarded more carefully than one's body and property, since the admixture of castes is the same in both the cases; the family of the *sudra* is ruined by it just as much as that of the *brahmana*.

These rules of punishment are to be observed in connection with the wives belonging to the respectable families. This is most probably

due to the fact that wives are the custodians of national morality and purity. But with regard to the wives of those who are of doubtful character or women who are themselves not very chaste, Manu's rules are not so strict. He says, "This rule does not apply to the wives of actors and singers, nor of those who live on their own wives, for such men send their wives to others or concealing themselves allow them to have criminal intercourse".[142] Baudhayana also says the same thing.[143] But even this act is punishable if the man has not taken the husband of such women into confidence. Manu says, "He who secretly converses with such women or with female slaves kept by one master and with female ascetics, shall be compelled to pay a small fine".[144] Yajnavalkya prescribes a fine of 2 *panas* for approaching a female scetic.[145] The reason why some punishment is necessary even in these cases lies in the fact that the women converned are not entirely public women; it is only with the permission of their husbands that they admit paramours. It is on account of this fact of their not being independent that they should be approached not directly but through a go-between for the purpose of ascertaining if the misalliance has the husband's sanction". Here we find that Manu mentions female ascetics among women of easy future. This attitude of his towards them appears to be due to the fact that they had no proper guardians to look after them and they hid their lascivious tendencies under the cloak of asceticism.

Having connection with another's wife is also a sinful act. Manu includes it among minor sins.[146] He prescribes very severe penances that are to be undergone by a man committing such an act. He should undergo either the penance for cow killing or observe the lunar penance.[147] Holding criminal intercourse with another man's wife is included among wicked bodily actions.[148]

So far we have dealt with the punishments prescribed by Manu for male offenders. Now we shall see what punishments are to be given to the wife who violates her husband and has relations with other men. Manu's attitude towards erring wives is far more sympathetic than that towards erring men. In most cases of adultery the wife is neither to be given any legal punishments nor is she to be driven out of the house by her husband; she has to undergo only religious penances to atone for her guilt. Gautama prescribes that a wife who spoils her chastity must undergo a penance, but she should be kept, under guard and given food.[149] Yajnavalkya declares, An adulterous wife should be deprived of her authority over the servants, should be made to wear dirty clothes, should be given food just sufficient to enable her to live, should be

treated with scorn and be made to lie on the ground; she becomes pure when she has her monthly period, but if she conceives during the adulterous intercourse, she should be abandoned".[150] The Mitaksara maintains that the abandonment consists in not allowing her to participate in religious rites and conjugal matters; she is not to be cast off on the streets, but she is to be kept guarded in a room and is to be given food and raiment.[151]

If she were punished in the law-court she would shake off all fear of public opinion and would become a confirmed sinner. Manu thinks it wiser to give her opportunities to mend herself. So he says, "Let the husband confine an exceedingly corrupt wife to one apartment and compel her to perform the penance which is prescribed for males in case of adultery".[152]

And even if she goes on repeating the guilt, she is not to be given legal punishment. She is required to observe the *Chandrayana* and the *Krchchhra* penances.[153] She is neither to be discarded nor brought before the court. The humane element in Manu's legislation is seen in the fact that even in cases of adultery he does not allow the husband to drive the wife out of the house and abandon her.

But one thing deserves special notice in this connection. If the wife does so audaciously through pride, she is to be given a very severe punishment. Manu says, "If a wife, proud of her relatives or her own excellence, violates the duty which she owes to her lord, the king shall cause her to be devoured by dogs in a place frequented by many".[154] But when the wife commits adultery under the pressure of lust or through coercion or through ignorance, she is not to be punished; she has only to purify herself through penances. If, as stated before, she does so through insolence and pride, she is to be given exemplary punishment. When a woman neglects her husband and goes over to another man through pride consisting in the idea 'I have several relations who are powerful and wealthy and I myself am possessed of all the excellent qualities of a woman, such as beauty and love, why should I then mind my character', such a woman the king shall get devoured by dogs till she dies.

Proprietary Rights during Coverture

In early times proprietary rights of women were hardly recognised in any civilisation. They themselves were an item of the movable property of the *patriach*. But it was not so in India. Even in the Vedic age the husband and the wife were regarded as the joint owners of the

household. The husband was required to take a solemn vow at the time of the marriage that he would never usurp his wife's rights in economic matters although this was not adhered to literally. Apastamba holds that at the time of partition the share of the wife comprises of her ornaments only as also the wealth given to her by her relations.[155] Yajnavalkya allows her one-third share in her husband's property if she is superceded unjustly.[156] If the father himself separated his sons during his lifetime his wife was entitled to a share equal to that of a son.[157] The Mitaksara says that this giving of a share to the wife solely depended on the sweet will of the husband.[158] But this share of the wife was to include her *stridhana* also for he says that if the wife had *stridhana* property, then only as much more out of the husband's property was to be given to her as would make her share equal to that of a son.[159]

Manu, however, does not allow any share to the wife in the property of her husband during his lifetime. She had only the right of maintenance against her husband which could never be denied to her even if she became unchaste or outcaste or persisted in immorality.[160]

One thing in this connection deserves special notice. There occurs in the *Manusmriti* a verse which says that a wife, a son and a slave are declared to have no property and that the wealth which they earn goes to him to whom they belong.[161] Kane is perfectly right when he observes, "It may be that this verse only gives expression to an ancient opinion, that the literal meaning of the verse was given up long before and that all that Manu meant was that during coverture a woman was subject to the control of the husband as regards her *stridhana*".[162] This view of Kane finds support in the statement of Manu himself when the latter lays down "Women should never make a hoard from the property which is common to many, nor from their own property without their husband's permission".[163] The Mitaksaras observes that this verse of Manu does not mean that a wife or a son can own no property at all but all that it means is that they have not got independent power to alienate their property.[164]

This verse of Manu appears to mean simply that the earnings and other receipts of the wife are to go to the husband. It does not indicate anything as to whether or not she is entitled to hold any property by herself.

Stridhana

Stridhana in its origin appears to be connected with the custom of the bride-price which is greatly denounced by our law- givers. But

every dark cloud has got a silver lining in it. The custom was no doubt a bad one, still it had one redeeming feature about it; it greatly contributed to the development of the *stridhana*. Owing to their affection for the daughter, the parents might have liked to give a part and sometimes even the whole of the bride-price to her to be enjoyed by her as her separate estate during her own lifetime. This view of things finds support in the following facts. If she died leaving children behind her, her property would devolve upon them. And as they were the man's own grandchildren, he also would not object to the passing of the property on to them.[165] But if the daughter died issueless her *stridhana* property reverted back to her family if the marriage was contracted in the Asura and other two condemned forms of marriage.[166] It was only in the case of the first five forms of marriage that her property remained with her husband, [167] as in these the *stridhana* of the woman did not consist of the bride-price for, no such thing was paid in these forms of marriage. This reverting back of the *stridhana* of a childless daughter to her father, clearly indicates that it mainly consisted of the bride-price which had been given to her by her father at the time of her marriage.

Traces of *stridhana* can be found in the Vedic period also. The marriage hymn in the *Rgveda* contains two verses which indicate that the gifts to the bride were to be sent to her husband's house along with her.[168] Sayana explains the word *'vahatu'* occurring therein as 'cow and other things given for keeping the married girl in good honour'. *Taittiriya Samhita* holds that the wife is the mistress of the house.[169] Jaimini refers to this passage for establishing that women do own certain property.[170] Apastamba includes in her *stridhana* the ornaments belonging to the wife and also such wealth as came to her from her agnates.[171] Baudhayana says that the daughter gets the ornaments of her mother and whatever is customary for her to get.[172] Vasistha prescribes that daughters should divide the nuptial presents given to their mother.[173]

But none of these sages defines *stridhana* in clear words nor does he give any comprehensive list of such property. Gautama contains three *sutras* about the devolution of *stridhana* but he does not define or describe it at all.[174] Kautilya, however, defines it as the means of subsistence or what could be actually worn on the body; he fixes the means of subsistence at 2000 *panas* as the maximum while he puts no restriction on what could be given as *avadhya*.[175]

Even Manu does not define it, although he is the first lawgiver to

give a comprehensive description of it. According to him it is of six kinds; what is given before the nuptial fire, what is given on the occasion of the bridal procession, what is given in token of love, what is received from her brother, her mother, or her father.[176] The *Mitaksara* explains that the number six is to mean that there are at least six kinds of *stridhana*; it could be more but never less than that Manu mentions one more kind of it, *anvadheya*.[177] Kautilya names *sulka, anvadheya, adhivedanika* and *bandhudatta*.[178] Yajnavalkya adds *adhivedanika* [179] to the list of Manu; it means a compensation for the loss suffered by the wife and it had to be given to the former wife at the time of marrying another one.

But the *Mitaksara* has widened the scope of the definition of *stridhana* in such a way as to take into its purview all the five kinds of property which may come to a person in various ways as laid down by Gautama. Thus according to the *Mitaksara* property of any description belonging to a woman becomes her *stridhana,* even if it be inherited by her from a male person either as a widow or as a mother. The Dayabhaga, on the other hand, observes that alone is her *stridhana* which a woman can donate, sell or enjoy independently of her husband's control. According to it all the gifts from the relations, except those of any immovable property made by the husband himself, and also those from others made before the nuptial fire or on the occasion of her departure from her father's house, constitute the *stridhana.* But property inherited by a woman or obtained in partition, gifts from strangers and property acquired by her means of mechanical arts or by her own labours are not included in her *stridhana.*

But such widening of the scope of the woman's property and her rights over it has not been accepted by others as they considered it as wholly inconsistent with the general status of woman. Henry Maine also seems to think on the same lines when he observes, "The settled property of a married woman incapable of alienation by her husband is well-known to the Hindus under the name of *stridhana.* It is certainly a remarkable thing that the institution seems to have developed among the Hindus at a period relatively much earlier than among the Romans. But instead of being matured and improved, as it was in Western society, there is reason to think that in the east, under various influences which may partly be traced, it was gradually been reduced to dimensions and importance far inferior to those which at one time belonged to it".[180] The author shows a deep insight into the Hindu conception of law on this point when he says that except the author of

the Mitaksara all the lawgivers who succeeded one another show a visibly increasing desire to curtail the proprietary rights of the women.

Now we pass on to the consideration of the extent of woman's power of disposal over her *stridhana*. Although the *Taittiriya Samhita* lays down in general that the wife is the mistress of her *stridhana,*[181] yet it does not say anything clearly about her specific powers regarding its sale or gift. And Manu also does not seem to grant such rights to her over her *stridhana*. He declares that the wife ought not spend anything even from her *stridhana* property without her husband's sanction.[182] Even Kautilya's statement that it is no sin on the part of the wife to make use of this property in maintaining her son, her daughter-in-law or herself when her absent husband has made no provision for her maintenance,[183] implies that in the presence of her husband she had no independent power over her *stridhana*; it was only in his absence that she could handle it freely to meet her urgent needs.

But inspite of all these restrictions put on the free use of her *stridhana* by a woman, her husband could not normally deprive the wife of it. At the most it was only when she was inimical towards her husband that the latter could temporarily seize her property as a disciplinary measure.[184] But Manu does not say anything as to whether or not the husband could utilise his wife's property in times of emergency. This much, however, is certain that except the husband no other relations had any right to use her *stridhana* during her lifetime even though they were in distress; if they did so they were to be punished like thieves.[185] Such an action of theirs was also considered to be a sin; for, Manu says, "But those relations who live on the property of women or appropriate their beasts of burden, carriages and clothes commit sin and sink into hell".[186] Even the ornaments worn by the wife during the lifetime of her husband not to be partitioned after his death by the *dayadas;* if they do so they are to be treated as outcastes.[187]

Kautilya lays down certain definite rules regarding the right of the husband in the property of his wife. He says, "In calamities such as disease and famine, in warding off dangers and in charitable acts the husband too, may make use of this property. Neither shall there be any complaint against the enjoyment of this property has been enjoyed by those who are wedded in accordance with the custom of the first four kinds of marriage. But the property enjoyed by the husband in the cases of the *Gandharva* and the *Asura* forms of marriage, shall be restored together with interest on it. In the case of the Raksasa and the Paisacha forms of marriage, the use of this property by the husband

shall be dealt with as a case of theft".[188]

In dealing with this topic Kautilya has shown admirable insight in the matter. The first four forms of marriage are avowedly the superior ones. Marriages performed in any of these forms are supposed to be good as the parties dealt with each other in a fair manner. The husband was expected to be noble and his behaviour towards his wife was likely to be gentlemanly throughout his life. So, Kautilya saw no harm in permitting the man to use the property of his wife if he needed it.

The remaining four forms of marriage were surely looked down upon. Even of there, the last two were certainly the most hateful ones. The husbands who took recourse to such marriages could never be considered to be quite good and the interests of the wife in their hands could not always be safe. So Kautilya has very wisely restrained such husbands from having a free hand in dealing with the *stridhana* property.

The *Gandharva* form was a love-marriage. The fervour of sex was sure to fade away in course of time. In such a case if the husband was permitted to squander away the property of his wife there was every possibility of her being left quite destitute. Therefore, the husband was made to return with interest what he took from his wife under unavoidable circumstances. In the *Asura* form, if this check was not there, it was quite possible that the husband.might take back from his wife what had been given to her as a consideration before the marriage and which she had brought with her after it.

In the last two forms of marriages, the conduct of the husband before marriage was certainly quite condemnable. Persons who could apply such abominable tricks to entice a helpless girl might well be expected to do anything. So if they later on decided to desert her after spending her *stridhana* they would be wronging her doubly; in the beginning treacherously spoiling her chastity and later on robbing her of her property. What greater criminals than such husbands could there be? So they have been rightly declared to be punishable as thieves and criminals if they touched the property of their wives.

Yajnavalkya lays down that the husband could freely utilise the wife's property in times of dire necessity and he was not required to pay it back.[189] The Mitaksara clearly says that except the husband no other person is entitled to utilise the woman's property.[190] Narada holds that the law of adverse possession does not affect the *stridhana* property.[191]

Now regarding succession to the *stridhana*. The oldest extent text

is that of Gautama which provides that *stridhana* devolves first on the daughters, and even among them the unmarried ones have the preference; while among the married ones also, those that are not well provided.[192] Kautilya prescribes that if a woman dies during her husband's lifetime her sons and daughters divide her *stridhana* if she has no son the daughters alone share it; and in the failure of both, the husband takes it.[193]

But Manu ordains that when the mother dies all the full brothers and the full sisters should equally divide the mother's estate. Even to the daughters of those daughters something should be given out of the estate of their grandmother.[194] Manu clearly says that the six kinds of *stridhana* as also the *anvadheya* and the gifts made to her by the husband, should go to her progeny if she died in her husband's lifetime.[195] He further provides that when a woman was married in one of the first five forms of marriage and died without issue, her *stridhana* was to go to her husband[196] while if she was married in the *Asura* or the other two forms, it went to her mother and father if she died sonless.[197] At another place he provides that if the woman is sonless and has only daughters, her *stridhana* will not be divided among all the sisters but will go to the unmarried ones alone.[198]

Yajnavalkya provides that the daughters take the *stridhana* estate of their mother and in their absence it is to devolve upon the male issues. He again says that the *stridhana* goes to the daughters, but if the woman dies issueless then the husband should get it if he was married in one of the four superior forms; but in the case of the four lower forms, her parents were entitled to it.[199]

In this connection one thing is worth noting. Manu does not make any distinction between the married and the unmarried daughters in the matter of the devolution of the stridhana on the heirs of a woman. Brhaspati says that only the unmarried daughters are entitled to a share in the *stridhana* of their mother, along with their brothers.[200] Various reasons regarding the significance of these rules have been adduced by modern writers in Hindu Law.[201]

Notes and References

1. Manu IX. 26-28
2. Mbh. XII. 4.4, XII. 144.16, III, 58.29
3. Raghu. VIII. 67
4. Manu. I. 32

5. Sat.Br. V. 1.6.10, also V. 2.1.10.
6. Manu. IX.45
7. Br. Up. 1.4.3.
8. Rama. II. 37, 23-24.
9. Manu IX. 46
10. *ibid.,* IX. 95, IV. 32
11. *ibid.,* VIII. 114, 275, 309.
12. *ibid.,* IV. 180.
13. *ibid.,* VIII. 317.
14. *ibid.,* IX. 22-24.
15. *ibid.,* VIII. 335
16. *ibid.,* IX. 101-102.
17. *ibid.,* IX, 96.
18. On Manu. IX. 96
19. Manu III. 60
20. *ibid.,* V, 151, 156.
21. Mbh. IV. 232,4-6,24,29,32,37,39.
22. Manu. V. 154-155.
23. Rama. II. 117. 22-28.
24. Mbh. XVI. 23.
25. Manu. V. 153.
26. Yaj. I. 77
27. Manu. V. 165-166.
28. Yaj. I.87
29. Manu. V. 164.
30. *ibid.,* V. 150
31. *Kama Sutra.* V. 22
32. *Kama Sutra.* V. 19
33. Sak. IV.16
34. Manu. III. 61-62.
35. *ibid.,* V. 150.
36. *ibid.,* IX. 13.
37. On Manu. IX.13
38. Manu V. 148-149.
39. *ibid.,* V. 147.
40. R.V.I.74.5
41. Tai. Br. III. 7.5
42. Tai.Br. III. 7.1

43. Ap.Dh.S.II. 6.13.17-19
44. Asva. Gr. S.I 8.5-6
45. Gobh.Gr. 5.1.4.16-19
46. Panini.IV. 1.33
47. Manu. III. 121.
48. *ibid.*, III.116
49. *ibid.*, III. 262.
50. *ibid.*, IX. II.
51. Yaj 1.83, Sukra.IV. 4-12-32, Br. 24.4, Visnu 25.1
52. Manu.IX, 28.
53. *ibid.*, IX.86.
54. *ibid.*, IX.96.
55. *ibid.*, V. 167.
56. *ibid.*, V. 168.
57. *ibid.*, V. 155.
58. *ibid.*, IV. 205, XI. 36-37.
59. *ibid.*, III. 103.
60. *ibid.*, IX.95
61. Srinatha Vs. Prabodha IX. C.L.J. 580.
62. Manu. VIII. 389.
63. Manu. XI. 176.
64. Mbh. XII. 165.63.
65. Yaj. 1.70.
66. Manu. IX.74.
67. *ibid.*, IX.75.
68. Yaj. I. 84.
69. वृद्धौ च मातापितरों साध्वी भार्या सुत: शिशु: ।
    अप्यकार्यशतं कृत्वा भर्तव्या मनुरब्रवीत् ।।
70. Manu. IX. 5-6
71. *ibid.*, IX. 7.
72. *Vivadaratnakara*, p. 410.
73. Manu. IX, 8-9.
74. *ibid.*, 14-16.
75. *ibid.*, IX.17
76. *ibid.*, IX. 19-20.
77. *ibid.*, IX.12.
78. *ibid.*, IX. 13.
79. *ibid.*, IX. 11.

80. *Kamasutra.* IV. 1,3,26,28,19,14.
81. Mbh.IV. 232-233, Mbh. XII. 146.37.
82. Sak.IV.21.
83. *Sexual Life in Ancient Greece,* p. 38.
84. *Social Organisations, p. 368.*
85. Manu. IX.4.
86. *Parasaramadhanya*, p. 428
87. *Sexual Life in Ancient Greece*, p. 25.
88. Plato; *Laws* IV. 721, VI.774.
89. Manu. III. 45
90. Kant. III. 159.
91. Manu. III. 46.
92. *ibid.*, III. 41
93. Manu. III. 48.
94. *ibid.*, IV. 128.
95. Yaj. I. 79.
96. Manu. III. 49.
97. *ibid.*, III. 50.
98. *ibid.*, IV. 40
99. *ibid.*, IV, 41.
100. *ibid.*, IV. 42.
101. *ibid.*, V. 85; IV. 57.
102. *ibid.*, V. 66.
103. *ibid.*, IX. 80.
104. *ibid.*, IX.81.
105. *ibid.*, III. 61.
106. *ibid.*, IX. 82
107. *ibid.*, IX. 83.
108. R.V.X. 85.2, A.V. XIV 1.18. A.V.XIV, 1.49.
109. Ap.Dh. S. II. 10.27.6, 1.10.28.19
110. Vas. XXVIII. 2.3.
111. Kant. III. 155.
112. *ibid.*, III. 145
113. Manu. IX.45.
114. *ibid.*, IX.46.
115. *ibid.*, IX. 101
116. *ibid.*, IX. 95
117. *ibid.*, VIII. 389, XI.188.

118. *ibid.*, IX.77.
119. *ibid.*, IX. 78.
120. *ibid.*, IX. 79.
121. *ibid.*, XI. 176.
122. *ibid.*, XI. 177.
123. Manu. VIII. 371.
124. *ibid.*, IX. 76.
125. Urwick, *The Social Good*, p. 137.
126. J.S.Mackenzie, *Outlines of Social Philosophy*, p. 77.
cf. M.K.Gandhi, "Their marriage is a sacrament, the union is not the union of bodies but the union of soul, indissoluble even by the death of either party". *Young India*. 3.6.1921, page 11.
127. Manu. IV. 134.
128. *ibid.*, VIII. 352.
129. *ibid.*, VIII. 353.
130. *ibid.*, VIII. 354-355
131. *ibid.*, VIII. 361.
132. Kant. III. 155.
133. *ibid.*, III. 155.
134. Yaj. II. 288.
135. Manu. VIII. 356.
136. *ibid.*, VIII. 357.
137. Yaj.II.287.
138. Manu. VIII. 358.
139. *ibid.*, VIII.359.
140. Baudh. II. 4.1-2.
141. Manu.VIII. 359.
142. *ibid.*, VIII. 362.
143. Baudh II. 4.3.
144. Manu. VIII. 363.
145. Yaj. II. 293.
146. Manu. XI. 61, XII. 60.
147. *ibid.*, XI. 72-73.
148. *ibid.*, XII. 7.
149. Gaut. XXII. 35.
150. Yaj.I. 70,72.
151. Mit on Yaj. I. 70.72.
152. Manu. XI. 176.

153. *ibid.*, XI. 177.
154. *ibid.*, VIII. 371.
155. Ap. Dh. S. II. 6.14.16.20.
Ap. Dh. S. II. 6.14.9.
156. Yaj. II. 76.
157. *ibid.*, II. 115.
158. Mit on Yaj II. 52.
159. Yaj. II. 148.
160. Manu. XI. 176-177, 188.
161. *ibid.*, VIII, 416.
162. *History of Dharmasastra* Vol.III. p. 771
163. Manu. IX. 199.
164. Mit. on Yaj. II. 49.
165. Manu. IX. 195.
166. *ibid.*, IX. 197.
167. *ibid.*, IX. 196.
168. R.V.X. 85. 13, 38.
169. Tai, S. VI, 11.16.
170. Jain. VI. 1.16.
171. Ap. Dh. S. II. 6.14.9.
172. Baudh. II. 2, 49.
173. Vas. XVII 49.
174. Kant. XXVIII. 24.
175. *ibid.*, III. 2.
176. Manu. IX. 194.
177. Mit. On Yaj. II. 143.
178. Kaut. III 2. P. 153.
179. Yaj. II. 143-144 आधिवेदनिकाद्यं च ।
180. *The Early History of Institutions,* p. 231.
181. Tai. S. VI. 2.1.1
182. Manu. IX, 199.
183. Kant. III. 2.152
184. Manu. IX. 77.
185. *ibid.*, VIII. 29.
186. *ibid.*, III. 52.
187. *ibid.*, IX. 200.
188. Kant. III. 2. 152.
189. Yaj. II. 150.

190. Mit on Yaj. II. 147.
191. Nar.III. 83.
192. Gaut. XXVIII. 22
193. Kant. III. 2.153.
194. Manu. IX. 192-193.
195. *ibid.*, IX. 195.
196. *ibid.*, IX. 199.
197. *ibid.*, IX. 197.
198. *ibid.*, IX. 131.
199. Yaj. II. 117, 144.
200. स्त्रीधन स्यादपत्यानां दुहिता च तदंशिनी ।
अपुत्रा चेत् समूठा तु लभते मानमात्रकम् ॥

Quoted on Manu IX, 192.

201. Kane, *History of Dharmasastra*, Vol.III. p. 771. Allekar. *The Position of Women in Hindu Civilization* p. 229, Mit on Yaj. II. 145.

Chapter 5

THE WIDOW

General Position

According to Manu the union between the man and the woman before the nuptial fire is held to be the most unbreakable tie and it subsists even after the death of one of the partners. He observes, "Let mutual fidelity continue till death; this may be considered as the gist of the highest law for the husband and the wife".[1] And further, "A faithful wife who desires to dwell after death with her husband, must never do anything that might displease him who took her hand, whether he be alive or dead. Until death let her be patient of hardships, self-controlled and chaste and strive to fulfill that most excellent duty which is prescribed for wives who have one husband only."[2]

Thus Manu does not recommend that the widow should die with her dead husband; she might survive him. She was only to pass the remaining portion of her life in absolute self-negation proving loyal to her husband and offering homage to him in her thought as well as in her deed. The ideal for her was a life of celibacy after the death of her husband.

In the days of the Manu the condition of the widow was not so miserable as it became later on. The custom of tonsure or burning the widows alive with their dead husbands appears to be unknown to him. Except that she was to lead a chaste life, no other restrictions were imposed upon her. She was not looked down upon as inauspicious and, therefore, not debarred from taking part in ceremonial festivities. She was allowed to live a normal life like any other woman in the family. No stigma was attached to her. But in course of time more and more restrictions began to be imposed upon her, and ascetic ideals of life came to be prescribed for her.

Near about the 7th century A.D. advocates of sati custom came

forward in increasing numbers who extolled it as the highest act of virtue for a widow. Angiras argued that the only course which religion prescribed for a widow was that of *sati*.[3] But it had no authoritative support, rather it was opposed to all express Vedic texts which ban suicide altogether.

Widow-Marriage

In the Vedic period widow-marriage seems to have been allowed. A widow's son is referred to in a passage in the *Taittiriya Samhita*, which suggests that the widow- marriage was prevalent at that time.[4] In one place the *Atharvaveda* refers to a woman marrying a second time, and lays down a ritual to secure the union of the new couple in heaven.[5] There are certain verses in the *Rgveda* which are interpreted by some as referring to the custom of the widow- marriage. But there is much controversy over this point and the scholars have widely differed.[6] But this much is certain that the widow-marriage did exist in the Vedic age. But the *grhyasutras* are silent about the marriage of widows. This shows that probably by that time it had come to be prohibited generally.[7] Apastamba condemns the widow-marriage thus, "If one has intercourse with a woman who had already had another husband, then sin is incurred."[8]

And Manu also is definitely opposed to the marriage of the widows. He says, nowhere is a second husband declared for virtuous women;[9] in the procedure of marriage there is no declaration about the remarriage of the widows;[10] a maiden can be given only once;[11] and the Vedic mantras used in *Panigrahana samskara* are applicable to the maidens only.[12] These statements clearly show that Manu does not permit the widow to remarry on any account. He says, "Till her death she should be forbearing, observe vows, should be celibate and should hanker after that most excellent duty which is prescribed for wives who have one husband only."[13]

The necessity of having a son was stressed on religious grounds. If a man died without a son, it was the sacred duty of his wife to procreate a son in her own as well as in her husband's interest. But this attitude was not liked by Manu, who says, "On her husband's death if a virtuous woman abides by the rules of celibacy, she goes straight to heaven though she be sonless, as the ancient perpetual students did."[14] Thus in his opinion the widow does not stand in need of remarriage even in her own interest. Her husband too is not affected in anyway by having no son from his widow; for, Manu says, "Many thousands of *brahmanas*

who were chaste from their youth have gone to heaven without continuing their race."[15] It may be noted that for such a contingency he has made the provision of having an adopted son[16] through whom her dead husband could very well get the benefit of the *sraddha* and the *pindas*. And hence he thinks that it is not at all necessary that the widow should sully her husband's bed for the sake of having a son born to her.

Continuing further he says, "But a woman who from a desire to have offspring violates her duty towards her deceased husband, brings upon herself disgrace in this world and loses her place with her husband in heaven."[17] And even if she succeeds in raising a son, the son so born would not be a real son competent enough to perform the religious duties and thus the very purpose of having a son would be defeated and yet she would have to bear, for nothing, the ignominy of being in the company of another man. He further observes, "A son raised by a man other than the husband, does not belong to the woman nor does he belong to the man who raised him. The man too cannot be treated to be her husband as there is no second husband for a chaste woman."[18] The son thus born is beneficial neither to his progenitor nor to the woman of whom he is born. According to Manu he only is a real son who is raised by the rightful husband of the woman;[19] and when for a chaste wife there can be no second husband, then how can a son raised by such a man be a real son? Not to say of a widow, Manu does not allow the marriage of even a merely betrothed girl, if the man to whom she was promised dies before the actual marriage.[20] That Manu dis-approves of the marriage of a widow is further evident from the fact that he places the son born of a remarried widow very low in the list of sons. He treats him as a mere Kinsman to his father and not as an heir.[21] The adopted son and the rest are entitled to inherit the property only in the absence of the legitimate son while the son of the remarried woman is not entitled do so even in the absence of the legitimate son. He is to get only food and clothing, irrespective of whether there is any legitimate son or not. Thus the son of a remarried woman has no legal rights in the property of the father. This is because no spiritual benefit accrues through him to the man; therefore, it is no use having a son of this type.

His social status also is not dignified. Manu includes the son of a remarried woman among the *brahmanas* that are not to be invited to a funeral repast.[22] The same inference can well be drawn from Manu's statement, "What has been given to a *brahmana* born of a remarried woman resembles oblations thrown into ashes."[23] Also the husband of

a remarrying woman is debarred from taking part in the funeral repast.[24]

Even for the purpose of maintaining herself she did not need having recourse to the company of another man. She might try to keep her body and soul together by dint of her own labour. As she was supposed to lead a very simple life she would not have required much for her maintenance. And if even this much was not available, she could live on roots and fruits which in India could be had practically free of cost. Manu says, "well might she emaciate her body living on pure flowers, roots and fruits; but she must never even mention the name of another man after her husband is dead."[25]

The foregoing discussions indicate quite clearly that Manu does not favour widow-marriage. And this he does for various reasons. First, this might tend to lower the moral standard of the ladies. In Indian homes it is they who are the mistress of the house, and on them rests the proper management of the household-affairs and the well-being of the family. So if one unit of it had the chance of shifting to another family it might result in dire consequences and might lead to economic as well as social troubles. Certainly, the life of celibacy is a hard lot for the widows, but laws are made for the well-being of the generality of the people living in a society and not for the benefit of particular individuals.

Secondly, if a woman was allowed to go from one family to another, some transference of property also, movable and immovable, was certain. Moreover, the family from which a woman went out might feel insulted and this also might create some trouble. The fact that the widow-remarriage is generally prohibited for the people of the upper classes only, gives support to this view of things. The women of the poorer classes, who are not expected to have property of any considerable value are free to marry and remarry, no restriction being put upon them. In making this provision Manu has taken a very sane view of things. If they were stopped from marrying again, their life would become a hell, for who was there to give them support, every individual member of the family having income hardly enough to support himself or herself alone. In such a case it was never advisable to stop them from remarrying. But the case is otherwise with the people belonging to the upper classes. In their case every family was expected to possess considerable property. So even though the immovable property might not be taken away by the outgoing widow, it was well within her reach to remove the cash and the ornaments etc.

easily, and this might have led to many troubles.

There might be another reason for prohibiting widow-marriage among the upper class people only and permitting others to go in for that. The former possessing wealth and property are expected to lead a comfortable and luxurious life. So they are not physically so strong as the people of the labour-class. Consequently, their bodies have got less power of resistance against diseases which are likely to be caused if one woman be permitted to live with two or more husbands one after another.

Besides, the prohibition of widow-marriage is also conducive to the safety and well-being of the husband. For, if a woman knows that her husband alone is her sole support, protector and saviour, she would strain all her nerves to keep him peaceful and free from worries. On the other hand, if she felt that she could lead a happy life with another man, she might well afford to be a bit indifferent to him and in some cases might try even to harm him positively. Manu and his commentators might have had all these facts in view when they made the laws banning widow- marriage.

Niyoga[26]

The custom of niyoga appears to have continued undisturbed up to the 3rd century B.C. After this we find two schools of thought regarding this custom. One school led by Gautama and Vasistha was in favour of this custom. The other, led by Apastamba and Baudhayana was against it.

Gautama holds that the girl is given away to the family of the husband, and so his brother or any other relation could take her as a wife and raise children on her after the death of her husband.[27] Thus he favours the custom of *niyoga*. Vasistha also recommends the appointment of the widow for this purpose.[28] But Apastamba and Baudhayana quote Aupajaghni who calls upon the husbands to guard their wives and not allow others to procreate sons on them, as the sons so created will benefit only the begetter.[29]

Manu belongs to this reformist school of thought and in his wonted fashion has at first dwelt at length on the procedure to be adopted in the *niyoga*.[30] And on going through the first few verses one feels inclined to believe that Manu generally permits niyoga for all the sections of the society. But this is not the correct view of the thing. Manu does not give in these verses his own opinion about the custom of niyoga but simply refers to the views of other ancient sages on the point.

That these verses do not represent the views of Manu himself is further proved by the fact that in the latter part of the discussion he has very clearly and vehemently condemned the custom of niyoga for the twice-born. He says, "By twice-born men a widow must not be appointed to co-habit with any other man except her husband; for, they who appoint her to another man violate the eternal law. In the sacred texts which refer to marriage, the appointment of the widow is nowhere mentioned. This practice which is reprehended by the learned is said to have occurred among men while Vena ruled. That chief of the royal sages who formerly possessed the whole world, caused a confusion of castes, his intellect being destroyed by lust. Since that time the virtuous censure that man who in his folly appoints a woman whose husband dies, to bear children from another man."[31]

But inspite of his adverse views about it Manu makes one exception in favour of *niyoga*. He allows only a merely betrothed girl to have recourse to this practice.[32] The child born of a woman in this way belongs, as the commentators point out, to her deceased betrothed.

That Manu does not countenance niyoga is further evident from the fact that he has assigned to the *Ksetraja* son the fourth place in the hierarchy of sons. First of all he deals with the *aurasa* sons, then with the sons of the appointed daughter, then with those adopted and last of all with the *ksetraja* sons.[33] He prefers even the *putrikaputra* and the *dattaka* to the *ksetraja* son. He allows the widow to adopt a *sagotra* as her son if her husband dies sonless but not to remarry.[34] The commentators have interpreted this verse as referring to the custom of *niyoga*. This is due to the fact that the verb*'aharet'* used in this verse may be understood to mean adoption as well as procurement.

The practice of *niyoga* has been hedged round with so many restrictions that it would have become very difficult and, at the same the occasions justifying it might be of very rare occurrence. The conditions laid down by Manu are as follows:[35]

1. The husband though living or dead must have no son,
2. The appointed person must be the dead husband's younger brother,
3. The appointment should have been made by the elders of the family,
4. The person appointed and the widow must not be actuated by lust but only by a sense of duty,
5. The person appointed must be anointed with *ghee* or oil and

must not speak with or kiss her or engage in sportive dalliance with her,

6. Only one son is to be produced,
7. After the birth of son the partners in *niyoga* are to regard themselves as a father and as a daughter-in-law.

And in a general way he condemns all the secondary sons. He says, "These eleven, the son begotten on the wife and the rest, as enumerated above, the wise call substitutes for a son taken in order to prevent a failure of the funeral ceremonies. These sons being begotten by strangers, belong in reality to him from whose seed they sprang, and not to the other man who takes them.[36] He further says, "Whatever result a man obtains who tries to cross a sheet of water in an unsafe boat, even he obtains that result who tries to pass the gloom of the next world with the help of the bad substitutes for a real son.[37]

To avoid such sons Manu makes the following suggestion. He says, "If among, brothers sprung from one father, one brother has a son, all the remaining ones are supposed to have male offspring through that son. And if among all the wives of one husband one has a son, all the rest are declared to be mothers of male children through that son.[38]

Manu further says, "If the two heirs of a man be a legitimate son of his body and a son begotten on his wife, each to the exclusion of the other, shall take the estate of his natural father."[39] If the *ksetraja* son happened to be such as had no paternal property at all, the *aurdsa* is required to give him onesixth of one-fifth of his property when he may choose to separate.[40] This proves the inferiority of the *ksetraja* son. It is apparent that this restriction also was intended to make the custom unpopular and undesirable, as the man would not have liked to produce a child on the wife of his brother who might possibly claim a share in his generator's property also.

Moreover, a *ksetraja* son is not entitled to the preferential share to which his father, if the eldest, was entitled.[41] This fact also shows that such a son was considered inferior.

The facts mentioned in the concluding paragraph of our discussions about widow-remarriage, apply more or less to the custom of niyoga also. There is yet another drawback in this case. It might lead to a quarrel between the wife of the man appointed and the widow herself and also among the sons born of the two ladies. And this was sure to make the home unhappy. It might even invite them to take bolder steps and one might try to do away with the life of the other.

Widow's Rights in her Husband's Property

We find that down to the 3rd century B.C. the right of the widow to inherit her husband's property was not recognised by any jurist. Vedic texts are definitely opposed to giving this right to her.[42] Most of the *Dharmasutra* writers have the same attitude. Baudhayana expressly rejects the widow's claim to property on the authority of the Vedic texts referred to above.[43] Apastamba lays down that in the absence of the son, the property should devolve not upon the widow but upon the nearest male *sapinda,* and failing him, it should go to his preceptor, and if he also be dead then it should be taken over by a disciple of the deceased to be spent for charitable purposes.[44] This detailed scheme of Apastamba about the devolution of the property nowhere makes any mention of the widow as the successor to her husband's property.

A few of the law-givers were inclined to give to the widow the right of maintenance only. Kautilya makes the widow's maintenance a charge upon the husband's estate if it was taken over by the state.[45] It was Gautama who first came forward to plead for the recognition of the widow's claim to her husband's property. He put forth the proposal that the widow should be regarded as a coheir with other *sapindas*[46]

Manu too does not recognise the widow as an heir to her sonless husband. He lays down that the property of a sonless man will first devolve upon his father, then upon his brothers and finally upon a *sapinda* and a *sakulya* in accordance with his propinquity, and when none of these is forthcoming, first a preceptor, then a disciple and finally the king should take it over.[47] Elsewhere he recognises the mother also as an heir to her sonless son.[48] The widow, however, is nowhere mentioned as possessing any right of inheritance. Medhatithi is correct when he holds that Manu does not at all recognise the widow as an heir.[49]

But one point deserves special attention. When there were sons, there was no difficulty. Manu does not allow the sons to partition out the property during the life-time of the mother. He clearly says that sons have got no right to the property so long as even one of the parents is alive.[50] The trouble arose only when the man died sonless.

This makes the position rather anomalous. The only possible explanation for the above statement is that the sons were restrained from partitioning the property simply on moral grounds. Otherwise, the legal rights in reality vested in them alone and not in the widow; for, if the sons were not the owners then who else was? The widowed

mother had never been given any right to the property and if the same was denied to the sons also then whom did the property belong to? A property must always be vested in someone; it could not be left without an owner. This may also be inferred from the fact that if the man dies sonless no right in his property is given to the widow he has left behind. The father, the mother, the brothers or others could inherit his property but not the widow.

This attitude of Manu appears to be due to the following facts. If there were sons, she could hold the property as their guardian; after her death they were to divide it among themselves. The property thus kept under her management could not be included in her *stridhana*. And if, on the other hand, the man died sonless, the property was to go to other male members of the family. Had the widow been allowed to get the property for herself, the whole of it would have become her *stridhana* and would have developed upon her daughters; for, in the days of Manu the stridhana had not been classified into *saudayika* and *asaudayika* ones with regard to each of which the widow's rights were quite different. Hence, if she were allowed to succeed to the property of her dead husband it would have become lost to the family and passed on to others with the result that the deceased would not have got the desired spiritual benefit from those who got his property. And even if she were allowed only a share in the property similar difficulties would have cropped up. Hence a widow was expected to maintain herself out of the *stridhana* which was in her possession and over which she wore during the life-time of her husband, though belonging to the main stock of the family- property, were allowed to be retained by her. The successors were not to lay their hands on them and if they did so they were to be treated as outcastes;[51] and the king was to punish such persons as thieves.[52]

In the course of time, however, the tendency in favour of the recognition of the widow's rights to her husband's property grew stronger. It was felt that she should be the sole heir to her husband's property if he died sonless. This view was for the first time advocated by Visnu about the beginning of the Christian era. He definitely lays down that in the absence of the sons, the widow shall inherit the whole estate of her husband.[53] Soon after this Yajavalkya joined Vishnu in championing the cause of the widow and gave her the right to succeed to her sonless husband.[54] Brhaspati also was a staunch supporter of this view.[55] But still there were some like Narada[56] and Katyayana[57] who did not recognise the right of the widow to succeed to her husband's

property even though he died sonless.

In the first part of the 12th century A.D. it was Jimutavahana who argued the widow's case in a very masterly fashion. He says, "There is no authority to hold that the ownership in the husband's property, which the wife acquires at the time of marriage, terminates with the husband's death. How then can it be argued that the wife's right is destroyed the moment she is widowed? Nor can it be maintained that she is to utilise just as much of the income as may be necessary for her bare maintenance. Visnu says that the property of a person dying without sons will first devolve on the widow and then upon the daughters and the parents etc. Now it is admitted that in the above text the term property denotes the whole estate when construed with all other heirs like the daughters, the brothers, the parents, etc. How then can it have a restricted meaning when it is construed with the widow alone?[58]

From these statements it can be easily inferred that there has been a gradual improvement in recognising the widow's right of inheritance to the property of her dead husband. At first it was thought that the right of ownership in the property was not so much needed for a widow. Therefore, Manu gave her only the right of maintenance. Later on it was felt that it was essential for her to hold some property in order to be able to maintain her position in the society, at least for so long as she was alive. Therefore, her limited ownership in her husband's property came to be recognised later on. A further improvement in this aspect was made by Jimutavahana who gave her absolute rights over her dead husband's property. But this view was only partially accepted and was mostly limited to the where the Dayabhaga school of law prevailed. But in the interest of the solidarity of the family, however, as also for avoiding disintegration of property the Mitaksara school of law still continued to give her only limited rights.

Notes and References

1. Manu. IV. 101
2. *ibid.*, V. 156, 158.
3. Quoted by Apararka on Yaj. I. 87
4. Jai S II 2.44
5. A.V.IX. 5. 27-28, A.V.V.17.8.9.
6. *History of Dharmasastra* Vol.II, p. 612

7. *ibid.*, Vol.II. P. 615
8. Ap.Dh.S.II.6.13.3.4
9. Manu. V. 162
10. *ibid.*, IX. 65
11. *ibid.*, IX. 47
12. *ibid.*, VIII. 226
13. *ibid.*, V 158
14. *ibid.*, V. 160
15. *ibid.*, V. 159
16. *ibid.*, IX. 190
17. *ibid.*, V 161
18. *ibid.*, V. 162
19. *ibid.*, IX. 166
20. *ibid.*, IX. 69
21. *ibid.*, IX. 160
22. *ibid.*, III. 155
23. *ibid.*, III. 181
24. *ibid.*, III. 166
25. *ibid.*, V. 157
26. Appointment of a wife or a widow to procreate a son or sons from intercourse with an appointed male.
27. Gaut XXVIII. 4.8
28. Vas XVII. 56, 65
29. Ap.Dh. S.II, 6.13.6., Baudh. Dh.S.II.2.38.
30. Manu. IX. 57-63
31. *ibid.*, IX. 64-68
32. *ibid.*, IX. 69
33. *ibid.*, IX. 105, 132, 141, 145.
34. *ibid.*, IX. 190
35. *ibid.*, IX. 143, 147, 173, 144, 60, 62
36. *ibid.*, IX. 180-181
37. *ibid.*, IX. 161
38. *ibid.*, IX. 182-183
39. *ibid.*, IX. 162
40. *ibid.*, IX. 164
41. *ibid.*, IX. 120-121
42. Jai. S.VI 58.2
43. Baudh. Dh. S. 5. 113-115

44. Ap.Dh. 5.II 6.14.2.3
45. Kaut. III. 5
46. Gaut. XXVIII, 21
47. Manu IX, 185, 186-189
48. *ibid.*, IX. 217
49. Referred to by Kulluka on Manu IX. 187
50. Manu IX. 104
51. *ibid.*, IX. 200
52. *ibid.*, VIII. 29
53. Visnu. XVII. 43
54. Yaj. II. 135-138
55. Quoted by Kulluka on Manu IX. 187
56. Narada, XIII. 52
57. Quoted by Mit. on Yajn. II. 136
58. *Dayabhaga*, Section XI.

Chapter 6

THE MOTHER

General Position

The mother is undoubtedly the object of the greatest reverence for her sons. Her superiority over all other women in the world is admitted and all the religions give her the highest position. There is no country or race which does not recognise her sanctity and greatness. How greatly the Greeks respected their mothers is evident from the sentiments expressed by Alexis who says, "God reveals Himself to us in the Mother more than in anything".[1] Our ancient Lawgivers also have the same regard for her. Apastamba prescribes that a son must always serve his mother even though she be an outcaste; for, the mother has to bear a lot of trouble for the sake of her son.[2] Baudhayana requires the son to maintain his mother even though she be an outcaste.[3] Vasistha says, "A father who is an outcaste may be abandoned but a mother is never an outcaste to the son.[4] Mahabharata says that the mother excels the father in greatness and in the whole universe there is no preceptor like her.[5] It further states that one may avert the consequence of all curses but a mother's curse can never be averted.[6]

Manu also gives a very high position to the mother. During the *bhiksatana* ceremony at the time of the *Upanayana*, the boy is required to approach for alms the mother first of all.[7] This is due to the fact that the mother is the greatest well-wisher of the son in this world. There is no reference to the father in this connection, which proves that the mother occupies a more honourable position than the father. Manu emphatically declares that she is a thousand times more honourable than the father.[8] From the order of the precedence as laid down here it follows that at a place where all these are present mother is to be saluted first, then the father, then the preceptor and then the sub-teacher. Mother is greater than the father because the former has

to bear greater pains for her son than the latter. From the very moment of its conception the infant is in emotional and mental interaction with her mother. These emotional experiences, psychological rather than cultural in their nature, give definite shape to the initial structure of its personality in the years to come.

She holds the highest rank among all the female relations of a man. Manu says, "Towards the sister of one's father and of one's mother and towards one's own elder sister one must behave as towards one's mother; but the mother is the most venerable of all these.[9] When one's mother directs him one way and the father's sister and the rest another way one should act according to the instructions of one's mother and not according to those of others; if other female relations desire one to do a particular work and the mother object to its being done, then that work is not to be done at all. Mother is one of the three supreme elders whose service has been highly spoken of. The mother must not be treated with disrespect however seriously one might be offended with her.[10] She is the image of the earth,[11] because both of them are equally capable of bearing burden. Manu further observes, "That trouble and pain which the parents undergo on the birth of their children, cannot be compensated even in a hundred years."[12] The trouble of the mother consists in bearing the child in the womb, then again parturition endangers the very life of her, and after the birth of the child there follows the trouble of rearing him." Therefore, the son must always do what is agreeable to the mother; when she is pleased he gets all those rewards which austerities yield; as obedience to her is declared to be the best form of austerity. He need not perform even meritorious acts without her permission. The mother is the *Daksinagni.* The son who does not neglect her, conquers the three worlds and radiant in body like a god, he enjoys bliss in the heaven. By honouring his mother he gains this world. All the duties have been fulfilled by him who honours her, but to him who does not honour her all rites remain fruitless. As long as the mother lives the son should not perform even meritorious acts independently of her; he should serve her joyfully, always doing what is agreeable and beneficial to her. He shall inform her of everything and with her consent only he may perform it in thought, word or deed for the sake of the next world. By honouring her, all that ought to be done by a man, is accomplished ; this clearly is the highest duty, every other act is a subordinate one.[13]

Forsaking the mother is a crime. Manu says that the mother is not to be cast off and he who does so unless she be guilty of a crime causing

loss of caste, shall be fined by the king a sum of hundred *panas*.[14] This means that if she is an outcaste no punishment is to be inflicted on the son forsaking her, but a fine of hundred *panas* shall be imposed upon him by the king in case he forsakes her otherwise or is disrespectful towards her or neglects to serve her properly. A mother can never become an outcaste even though if she commits a crime. And therefore, a son who neglects his mother in anyway is always liable to a punishment.

Forsaking the mother is also a sin, which puts a social stigma on the man who does so. Manu says, "Reprehensible is the son who does not protect his mother after the death of her husband."[15] Manu treats such a man as an outcaste, and says that one should not entertain at a funeral repast such a man as might have forsaken the mother without sufficient reasons.[16]

Mother's sentiments are always to be respected. Manu says that nothing should be done to offend her; the son should not act in such a way as is against her wishes. Manu says that the son should not quarrel with his mother. The reason is that the mother has power over the earth and he who avoids quarrels with her would be freed from all sins and would conquer the whole world.[17]

The mother suffers so much for the sake of her children that she becomes an object of great reverence and deserves to be treated like a goddess. It is never possible for a man to pay off adequately the debts he owes to her. Not even the father can compare with her in respect of bearing hardship for the sake of the progeny. From the very beginning till quite late after the birth of the child she has to bear troubles for its sake. When a child is born she is considered to be quite impure for a number of days although the father becomes purified by simply taking a bath.[18] The greatness of the mother has been emphasised at every step. For example, a student is not supposed to break his vow of *brahmacharya* if he carries the dead body of the mother to the place of cremation although in the case of others he has to undergo purificatory ceremonies.[19]

Even merely defaming the mother constitutes a crime. Manu says that such a son as defames his mother, shall be compelled to pay one hundred *panas* as a fine;[20] this punishment is to be inflicted on that man also who tries to create difference between the son and the mother. If a son disturbs the mind of his mother by saying that he is going out for a long time, he is to be punished in the same way.

Proprietary Rights

The mother has got collateral rights on her son along with the father. Even at the time of giving away the son in adoption the ceremony of giving has to be performed by both the parents jointly. Manu says, "That boy, equal by caste, whom his mother and his father affectionately give with a libation, must be considered as an adopted son."[21] The dual number form of the root da indicates that the giving away of the son is to be done jointly by the parents, though Manu has made no separate provision for cases where one of the parents be dead or anyhow be unable to participate in the act of giving. Just as the brother is entitled to give away the girl only with the father's permission so also is the father entitled to give her away only with the consent of her mother and the reason for this lies in the fact that in all things the husband and the wife have joint title and the daughter belongs to both the parents. In fact in discourse IX it is pointed out that if the father is not alive the girl may be given away by the mother. The child is born of both the parents and on this rests their right over her; hence it is only right that both should consult each other. Thus Manu accepts the joint authority of the parents over the son and seems to suggest that if one of them is absent the remaining one is competent to give away the son in adoption and the daughter in marriage.

With regard to the parent's right of succession to the property of the son, Manu states at one place that when the son dies issueless the mother takes his wealth[22] while at another place he provides that the father takes wealth of such a son.[23] Thus he is not very definite as to which of the two is the preferential heir; and there is a great conflict among the authorities also on this point. The Mitaksara prefers the mother to the father while the Dayabhaga prefers the father to the mother.

Manu holds that if a man dies sonless his property goes to his father or to his mother but not to his widow.[24] But if the person is not sonless and dies leaving behind his widow and his sons the property remains under the control of his widow in the capacity of the mother and guardian of his sons; it is not to be divided among them so long as she is alive.[25] Thus we see that as a mere widow she has no right in the property of her husband but as the mother of the son she has some rights over it. This view is supported by the fact that Manu does not make any mention of the share to be given to the mother. Examining closely the views of Manu on the point we see that he has given extensive rights to the mother in the family-property; so long as she is alive the

sons are not permitted to divide it among themselves. She is declared to be the legal heir of her sons only if, unfortunately, they die in her life-time.

Motherhood has been the cherished ideal of the life of a woman. The birth of a son immediately raises her status. Womanhood finds its sublimation in the motherhood. Devout prayers are offered in the marriage-rituals that the couple may be blessed with sons and grandsons. Manu says, "To be mothers were women created.[26] A woman about to be a mother, is granted several kinds of concessions by the state. Manu says, "A woman who has been pregnant two months or more shall not be made to pay toll at the ferry."[27] If such a woman drops filth on the king's highway she shall be simply reprimanded and asked to clean the place and would not be made to undergo any punishment.[28] On the contrary, if a woman is not blessed with a son she is looked down upon as impure and the food given by her is not to be taken by the *brahmanas.*[29]

In the foregoing pages we have seen how the great lawgiver has given his closest attention to the right of the mother over her children. We have now to see what duties are imposed upon her. In very clear words Manu says that the mother has to act as the care-taker of her children and is not permitted to separate from them on any account.[30] He goes even so far as to say that after the death of her husband she has to live under the supervision of her own sons,[31] who might have become well grown up by that time. And in case she does not do so she spoils her own family as well as that of her father.[32] Apparently he means to say that even in an advanced age a woman should not live away from the male members of her own family and this for obvious reasons; she might need protection against outsiders as also some means of subsistence which she might not be able to procure by dint or her own labour. In so far as a woman is a mother she deserves all honour and respect and her position as such is second to none. But Manu has taken the fullest note of this fact also that she is a mere woman with all her limitations. And, therefore, he has put this restriction that she must always be with the male members of her family. Even when she has to act as the guardian of her minor sons she gets support from the relations of her family and thus she indirectly enjoys protection so long as she is there with her own children.

Regarding the great importance of the mother there can hardly be two opinions. None suffers so much for the children as their mother does. Who else in the world can do so much for anyone? The troubles

of the father are nothing as compared with those of the mother. The father has to meet only the expenses of the child and can well afford to be away from it after making a good provision; but the mother gives her life-blood to the child and cannot be separated from it even for a few hours. It is, therefore, that in India the mother is treated as a goddess. In fact all the good things are treated as mothers. The land of our birth is called the motherland. All the noble rivers which irrigate our fields and make them productive are regarded as mothers. The deities presiding over learning, wealth and harvests are called mothers. Here a point of criticism may be raised; for, the goddess Kali who is a deity of destruction is also called a mother. Apparently this goes against the statements made above. But even here it has to be seen that her goodness and generosity remain unquestioned. For, she destroys all evils that may go to harm people who are all her children. It is due to this great importance of the mother that young graduates at the time of receiving their degrees at the convocation are charged with the mandate that they should look upon their mother as a goddess. What more lies in the hands of a man to do for her?

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Chapter 7

PROSTITUTES AND SLAVE GIRLS

Any work dealing with the position of women in society would be incomplete if nothing were said about prostitutes and slave girls as they also form a part of it.

Prostitutes

As in other parts of the world the prostitutes are found in India also from a very early period.[1] They are mentioned in the Rgveda. At one place the bright maruts are said to have become associated with the young lightning just as men become associated with a young courtesan.[2] Gautama also refers to prostitutes.[3] In the *Mahabharta* and the *Arthasastra* courtesans are described as an established institution. In the *Mahabharta* it is narrated how, a prostitute waited upon Dhrtarastra when his wife Gandhari was expectant.[4] Yudhisthira sends greetings to the prostitutes of the Kauravas.[5] Courtesans are described as going out to welcome Krsna when he came on a mission of peace to the Kaurava court.[6] When the Pandava army is described as about to start for battle it is said that courtesans also accompanied it.[7] Kautilya recommends the appointment of the superintendent of prostitutes to watch their activities and look after their welfare; the prostitutes also paid regular tax to the king and attended his court and rendered him personal service.[8] Kalidasa also refers to the institution of prostitutes.[9] In the *Jatakas* also there are numerous references to prostitutes indicating that they were tolerated and even esteemed to a certain degree. The fees paid to them were exceedingly high. The roguery and rapacity of prostitutes are often mentioned and it was regarded as a misfortune to be born of a harlot's womb.[10] The stories of Ambapali and Salavati show the important role the prostitutes

played in the social life.

But Manu has a very strong attitude towards prostitutes. He forbids a *brahmana* from taking food offered by them, and says that one who takes such food is excluded from the higher worlds.[11] He also condemns the food offered by such persons as subsist on the income of the prostitutes. He severely condemns them and says that they are much worse that even a slaughter house.[12] He regards them as social evil and requires the king to punish the clever harlots and recommends very simply penance for even killing them.[13] Gautama also says that for killing a woman who subsists by harlotry no *prayaschitta* is necessary; simply eight handfuls of corn may be gifted.[14] Post-mortem offerings too are denied to them.

Manu condemns such women also as are not faithful to their husbands. He says that the food offered by an unchaste woman is not to be accepted by a *brahmana* The food given by her is as vile as semen. Libations of water too are not to be offered to such women. The food offered by even such men as have unchaste women in their house is not to be accepted.[15]

Manu refers to the case of such men also as make money by allowing their wives to act as prostitutes and says that people holding conversation with such women are not to be punished but are to pay only a small amount as a fine.[16] This clearly shows that Manu had got very low opinion about such women.

But in spite of such severe condemnations the institution of prostitutes persisted and laws had to be made with regard to them also. Yajnavalkya lays down that if a prostitute after getting a fee refuses to receive the customer she shall pay twice the amount of the fee and the same shall be imposed on a man who does not pay her fee after having had intercourse with her.[17] *Matsva Purana* dilates upon the duties of the prostitutes and the special clauses of law applicable to them.[18] The *Kamasutra* defines a *ganika* as a *vesya* who is accomplished and proficient in the 64 *Kalas*.[19] The Mitaksara says that the *Skanda Purana* regards the prostitutes as the fifth caste beyond the four recognised ones. It further says that such courtesans as are not maintained exclusively by any particular person do not incur any sin if they have intercourse with men of the same or the superior caste, neither their nor the men having connection with them are punished by the king.[20]

The settlements of such women in public places are hinted at by an early Arab geographer while others notice it as a peculiarity of the Indians that they held the profession to be lawful.[21] Several passages in

the literature of this period deal with the class of accomplished courtesans whose virtues are extolled and vices condemned. In the two stories of *Upamitibhavaprapanchakatha*[22] we find that concrete instances of the better type of *ganikas* as well as those of the common variety. In the *Kuttanimatam* we get fuller details of the life of a prostitute. It relates a story[23] which shows that the connection of a *brahmana* with a prostitute was regarded as a disgraceful act. We may also refer to a passage in the *Kuttanimatam* illustrating the author's view that a prostitute was expected to possess high qualities of mind and body.[24]

Slave Girls

In the Rgveda mention is found that Trasadasyu gave fifty young men to him.[25] This probably refers to the gift of female slaves.[26] The *Taittiriya Samhita* says that *dasis* place on their heads jars full of water danced around the fire singing and thumping their feet on the ground.[27] The *Aitareya Brahmana* mentions a large gift of 10000 girls made by a king to his priest. When the angel of death tries to dissuade Nachiketas from trying to know the destiny of a person after death he holds out a temptation saying 'Here are such handsome women as cannot be secured by men.[28] The women referred to here are most probably female attendants who were well-versed in music and dance.[29] In the Mahabharata gifts of dasis are very frequently mentioned.[30]

The institution of slavery existed in the days of Manu also and the slaves were of both the sexes, male and female. Manu refers to slave girls who waited upon the king and looked after his comforts.[31] When he entered the harem to take his meals he was surrounded by female attendants.[32] Manu requires the king to fix a daily allowance suited to their rank and position for the women employed in the royal service.[33]

Manu is very considerate towards them. He puts them on the same level as the sons in the matter of giving corporal punishment.[34] What is enjoyed here is the method of keeping the persons on the right path and not actual beating; chastisements could be verbal also. The earnings of a slave belonged to the master.[35] What is meant by the text is only this much that the slave should not spend his earnings according to his sweet will. And it is only when the master has no property of his own that he incurs no sin by seizing the goods of his slave. Manu says that if the master creates a son on the slave girl the latter does not belong to the former.[36] This shows that no sanctity attaches to the son so born. Such a son, according to Manu, had no right in the property

of his progenitor.[37] In case of hardship could get some kind of maintenance. At the time of the partition of the property among the sharers the slave girls were not to form part of any share;[38] for, this might have wounded their sentiments. It may be mentioned here that in other countries, for example, the Islamic ones, slaves were treated as a piece of chattel and they could be granted their independence as an act of charity.

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Chapter 8

WOMEN IN GENERAL

In the foregoing chapters we have surveyed the position of women in their different capacities. We now purpose to understand the attitude of Manu towards them in general.

Everywhere he shows his concern for their well-being in various ways. His generous attitude towards them has secured a number of privileges and concessions for them. The killing of women, probably prevalent in primitive days, was certainly a very disgraceful offence. Manu prescribes capital punishment for such persons as kill a woman.[1] He declares it to be a sin also.[2] A woman-killer was to be social astracized. Manu treats it as an act of social opprobrium and says that one should not dwell in the company of the slayer of even an unchaste women.[3] For killing even an adulterous woman of any class Manu prescribes *prayaschittas* for purifying oneself by giving in alms a leather bag, a cow, a goat or a sheep.[4] He requires all the twice-born men to take up arms to protect woman.[5] Stealing away of the women of noble families makes the offender liable to capital punishment.[6] This act of sin is so great as is expiable by observing the severe penance of *chandrayana.*[7] Besides these, Manu has shown great regard for the women in various other ways also. In crowded streets the path had to be made clear for them.[8] This preference was to be given to her simply by reason of her being a woman irrespective of her caste or qualifications or the position of her husband. A woman who had been pregnant two months or more was not made to pay a toll at a ferry.[9] Such a woman deserved kind treatment and hence no ferry-toll was to be realised from her. If she had no proper guardian the king was to look after her interests and properties and punish like thieves those relatives of her that misappropriated her property during her life-time.[10] An old or a pregnant woman dropping filth on the king's

high-road was not to pay the fine to which others were liable. She was simply to be reprimanded and made to clean the spot.[11] If a woman was unable to pay a debt the king might let her off by simply inflicting some corporal punishment on her.[12] This may appear to be rough and rude at the first sight but looking deeply into the matter one can easily see that it was a much lighter punishment in comparison to the painful servitude to which she might have otherwise been subjected. In doing so the king did not leave her scotch-free and at the same time saved her from many evils.

For the same kind of offence the king was usually to give lighter punishment to women than to men.[13] Even if a woman had become an outcaste she was not to be turned out of the house in a state of destitution but clothes and food were still to be given to her and she was allowed to live close to the family- house.[14] And if a woman was exceedingly corrupt she was to be kept confined in one apartment and compelled to perform such penances as were prescribed for males in cases of adultery.[15] Even if she continued to be unfaithful, she was not to be discarded altogether but was to be given the opportunity of becoming purified by observing the lunar penance.[16] Even a quarrelsome woman was not to be superceded against her will.[17] A corrupt and a defective maiden could be legally married after her defects had been made known to her proposed husband.[18]

There is an innate purity in the person of a woman. Her face is supposed to be always pure and auspicious.[19] A man desirous of bodily purification is to sip water three times and wash his mouth twice but a woman is to do it only once.[20] As a river is purified in the natural course by its current so is the woman purged of her impure thoughts through her menstrual secretions,[21] A woman who did not actually indulge in carnal intercourse with a man but simply thought of the beauty and good qualities of other men, is regarded as of unclean mind and such a woman becomes purified by the flow of blood during the course. Her person is regarded to be so pure that there is no harm in accepting an excellent girl from even a base family.[22] Here Manu means that if a girl happens to be possessed of a well-formed figure and charming complexion and she happens to bear auspicious signs indicative of the possession of much children and so forth, then she should be married even though she belongs to a family wanting in the due performance of religious acts. She could be taken from anybody of any rank.[23] If a woman performed anything good it was not to be rejected simply on the ground of its being a mere woman's act but had to be accepted and

followed.[24]

Within the house everyone has to show the highest regards and solicitude for the women. Manu says, "Women must be honoured and adorned by their fathers, brothers, husbands and mothers-in- law if they desire their own welfatc. Where women are honoured no sacred rites yield rewards. Where the female relations live in grief, the family soon wholly perishes but that family where they are not unhappy ever prospers. The house on which female relations not being duly honoured pronounce a curse, perish completely as if destroyed by magic. Hence men who seek their own welfate should always honour women on holy days and festivals with gifts of ornaments, clothes and dainty dishes."[25] Some of the ladies like newly married women, maidens and expectant women are to be fed even before the *brahmanas* without any hesitation.[26] The relations to be honoured with honey-mixture are all from the female-side.[27] At the time of sacrifices and the funeral repasts also, the relations to be entertained all come from that side.[28] The householder is required to avoid quarrels with female relations in particular.[29]

Other social customs also indicate that the women had an honourable place. During the begging ceremony at the time of *Upanayana* it was the ladies of the house of whom the student was required to beg alms first;[30] and even in the course of daily begging for maintenance during the student-life he was to beg of the ladies alone.[31] These provisions were most probably due to the fact that the women being full of love and affection would be very sympathetic towards the begging students and would gladly give them alms without uttering any harsh words.

Ladies in general were to be addressed in a very respectful manner. Manu says, "But a female who is the wife of another man and not a blood-relation must be addressed as lady or as beloved sister."[32] Female relations were to be greeted very respectfully; in no way were they to be disregarded.[33] Such of them as were not highly educated in the sacred lore were to be saluted in the most simple and untechnical way without causing them any embarrassment.[34]

In spite of all these Manu is not blind to their defects and shortcomings. Here are some limitations also to which women as a class were subject. They were not regarded worthy of being entrusted with state-secrets. Manu says that at the time of consultations regarding important state-affairs, a king should get the women removed because when disregarded they might on account of their fickle mindedness

betray even high-level secrets.[35] This restriction imposed by Manu is in no way suggestive of sense of inferiority or distrust towards women in general; this rule of Manu merely refers to the removal of female attendants who generally surrounded the kings as being mostly recruited from the lower ranks of society they were certainly not to be trusted in important matters. Very likely some of them might happen be even the spies of the enemy.

Women were seldom called as witnesses. Manu says, "One man who is free from covetousness may be accepted as witness but not even many pure women because their understanding is apt to waver."[36] Women are never admissible, be they one or many and even though possessed of high qualifications; and the reason for this is that fickle mindedness is the very nature of women and therefore, they are liable to lapses through carelessness, idleness, and so forth; while other qualificator. Consequently, on account of this uncertainty, there can be no confidence in women even though they be highly qualified. However, it may be noted that Manu grants the right of giving evidence to women in two exceptional cases. Firstly when a qualified witness is not forthcoming,[37] and secondly when they are to appear as witnesses is in cases relating to their own class.[38] In cases where both the plaintiff and the defendant are males, the evidence of females is not admissible. When, however, the suit lies between a male and female or between two females then women may appear as witnesses. Women can also be witnesses in such disputes relating to females about which male persons are not expected to have any knowledge or experience.

Manu makes a general observation that by a girl, by a young woman or even by an aged one nothing must be done independently even in her own house. In childhood a female must be subject to her father, in youth to her husband, when her lord is dead, to her sons; a woman must never be independent.[39] The main idea behind these statements is not so much to deny freedom to women as to afford them good protection as is indicated by the use of the word raksati in this context. The restrictions imposed on them were primarily intended for the benefit of the women themselves. A women herself observed in the *Mahabharata*" To be without a proper protection is a great calamity for the fair sex in this world which is full of wickedness."[40] Manu again points out that the father is to blame if he does not give his daughter in marriage timely; the husband, if does not protect his mother in her old age.[41] Thus it is quite clear that his intention was not so much to deny freedom to women as to ensure them an adequate and continuous

protection throughout their life. Yajnavalkya also speaks of the dependence of women in the same strain.[42] The society as it is, cannot take good care of them at all times. But their dependence upon men was hardly anything more than a mere moral subjection, as may well be seen from the use of the word *'kartavyah'* in the text.[43] It was not a legal subjection in any sense and had little in common with the perpetual tutelage of women as found in the early Roman law.[44] Then again in chapter nine the use of the present tense in the verb *'raksati'*[45] shows that the precept was not mandatory but was merely recommendatory. Had it been an obligatory precept then the vidhilinga suffix might have been used. The protection here means the protection from vice. The notion of moral restraint is conveyed by the word raksa. It only suggests that women are not to be allowed such freedom as led them astray. A closer study of a few of the verses of chapter nine which follow the text about protection, reveals that Manu detests altogether the notion of physical restraint or coercion and declares only those women to be well protected who guard themselves against their own evil tendencies.[46] He emphasises the necessity of protection for women by saying that the father's and the husband's families are doomed to eternal perdition if women in them are not well protected; for on them depend the progeny, the character, the family and the self. He suggests some expedients for protecting them.[47] Then follows an enumeration of the evil ways of women and the dangers that are likely to beset them if they are not properly looked after.[48]

While referring to the rights of women we are reminded of a particular statement for which Manu has often been upbraided. It is the following verse:

Pita raksati kaumare bharta raksati yauvane
Raksanti sthavire putra na stri svatantryamarhati.

This stanza is taken to mean that the several male relations of the woman are to sit tight over her rights and deny to her the freedom she merits. This interpretation is against the spirit of Manu and imports extraneous considerations. What Manu states is that the marriage of the husband and wife implies such a complete merger of the two partners that their separate identity is lost and in the eye of law they become a single juristic person. The juristic personality of the daughter vests in her father, of wife in her husband and of the widow in her sons. Therefore, the woman is not to be treated as an independent juristic

person. The legal implication of this principle was to confer absolute immunity on the woman from being made actionable and dragged before a court of law. No claim against a daughter, a wife or a widow could be entertained by any competent authority because the woman had no tantra or juristic person of her own. It was never said by any of the law-givers including Manu that a woman could not own property. As a matter of fact they have mentioned the several sources by which property can accrue to a woman. For example, six kinds of *stridhana* are mentioned by Manu (IX.194). This interpretation of the statement of Manu is in perfect agreement with his other dictum in which he says that the 'Person' of the husband and the wife are co-extensive and identical. As a matter of fact Manu's statements for and against women, as embodied in the ninth book (verses 1-30) represent two sides of a controversy and the verses relating to the encomium bestowed on women form the uttarapaksa of his argument.

This view of things finds further support when we consider the proprietary rights given to them; and despite the doctrine of dependence the scope of these rights went on widening. Guarding here stands for the averting of troubles consisting in suffering caused by the transgression of the right course of conduct, by illegal appropriation of their property by others and so forth. The present text does not lay down that she shall not be independent in regard to anything at all; all that it means is that her mind being not quite under her control she is not capable of guarding herself, specially as she does not possess the requisite physical strength.

Aiyanger has rightly understood Manu when he says, "The idea of the perpetual tutelage of the Indian woman is a myth. It is management of the household, in the wife's concurrence being necessary for all gifts by the husband, in their enjoying rights of separate property and by the rule that family-estate should not be partitioned between the sons during the life-time of the widowed mother."[49]

Even the Greeks held the view that unmarried girls in particular needed to be guarded and that the art of house-keeping and silence befitted married women. They were not free to go out until they were of such an age that a man who saw them in the street did not ask whose wives but whose mothers they were.[50]

The German philosopher Nietzsche observes, "I know no book in which so many delicate things are said of women as in the law- book of Manu. These old saints have a manner of being gallant to women which perhaps cannot be repressed."[51]

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49. *Aspects of the Social and Political System of the Manu Smrti,* p. 164
50. *Sexual Life in Ancient Greece* p. 29
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Hailing from a respectable and scholarly Agrawal family of Varanasi Professor R.M. Das is one of the few indologists in India who have made abiding and valuable contributions in the field of Indological studies; he has, to his credit, several research works and papers which have been highly spoken of by scholars in India and abroad.

At present Professor Das is working on a Research Project, "Sexual Aberrations and Dharmashastra", approved and financially supported by U.G.C.

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